

# EXHIBIT C

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROBERT G. WINGO, )  
Plaintiff, )  
vs. ) 1:08:CV-00368  
THYSSENKRUPP MATERIALS NA, INC., )  
d/b/a COPPER and BRASS SALES, )  
INC., )  
Defendant. )

The deposition of ROBERT G. WINGO, called  
for examination, taken pursuant to the Federal Rules  
of Civil Procedure of the United States District  
Courts pertaining to the taking of depositions,  
taken before ELIA E. CARRIÓN, CSR No. 084.004641, a  
Notary Public within and for the County of Cook,  
State of Illinois, and a Certified Shorthand  
Reporter of said state, taken at Suite 3700,  
500 West Madison Street, Chicago, Illinois, on the  
19th day of May, A.D. 2008, at 9:53 a.m.

1 with Pete LaRocco while you were employed at Copper  
2 and Brass?

3 A. Good. I knew Pete for 25 years.

4 Q. And during the time you worked at Copper  
5 and Brass, you were represented by the Teamsters?

6 A. Yes, sir.

7 Q. Okay. Did you ever have any issue with  
8 the Teamsters representing you during your  
9 employment?

10 A. No. Never had hardly a grievance. In  
11 25 years I hardly ever had any problems. I was  
12 always good and never had any problems.

13 Q. Let's talk about your statement that you  
14 hardly had any grievances.

15 First of all, you were familiar with the  
16 labor contract between the company and the  
17 Teamsters?

18 A. Sure.

19 Q. And you filed a grievance at the time you  
20 were terminated, correct?

21 A. Yes.

22 Q. That's not the first and only grievance  
23 you ever filed, correct?

24 A. Correct. I had filed one about two years

1 Q. The phone conversation you just  
2 described, when did that take place?

3 A. That was roughly right before Christmas,  
4 somewhere right in there, like maybe somewhere  
5 between the 17th and 20 something.

6 Q. So again, we're talking Christmastime  
7 last year, 2007?

8 A. Correct.

9 Q. Did you ever receive anything in writing  
10 from the Teamsters letting you know what they were  
11 going to do with your grievance?

12 A. No.

13 Q. So you were familiar with the labor  
14 contract between the company and the Teamsters,  
15 correct?

16 A. Yes.

17 Q. And you were obviously familiar enough  
18 that, with respect to your termination, you filed a  
19 grievance challenging your termination, right?

20 A. Sure, yes.

21 Q. Were you aware that the contract, the  
22 labor contract between the company and the Teamsters  
23 had a no discrimination provision?

24 A. Yes.

1 Q. And were you aware that no discrimination  
2 provision, among other things, prohibited  
3 discrimination on the basis of age?

4 A. Yes.

5 Q. You never filed a grievance claiming the  
6 company violated that provision of the contract,  
7 correct?

8 A. I don't have a copy of the grievance in  
9 front of me to list all the, the issues.

10 Q. When you say you "don't have a copy of  
11 the grievance," Mr. Wingo, what grievance are you  
12 referring to?

13 A. The one that challenged my termination.

14 Q. So without seeing that document,  
15 Mr. Wingo, are you suggesting you can't answer the  
16 question whether or not you ever filed a grievance  
17 claiming the company did anything against you  
18 because of your age?

19 A. I think that was included in the wording.  
20 I don't know if it was specifically on that, but it  
21 was definitely in the wording.

22 Q. Let me ask you this, Mr. Wingo: What, if  
23 anything, did you review to prepare for your  
24 deposition today?

1 Q. And when did you start working for Copper  
2 and Brass?

3 A. January 5, 1984.

4 Q. And who was your supervisor at that time?

5 A. Jim Baber was the plant manager.

6 Q. And was that a union facility at the  
7 time?

8 A. Yes.

9 Q. And that would be a -- the union was  
10 Teamsters Local 714?

11 A. Correct.

12 Q. Who was the business agent at that time,  
13 if you can recall?

14 A. Oh, I don't remember. It was a long time  
15 ago.

16 They hadn't -- they had a couple of  
17 different people at times, maybe three people over  
18 the years. Bob Riley was the second one. I don't  
19 remember if he was there when I first started. He  
20 was one of the later ones, I think. I don't  
21 remember the very first guy.

22 Q. What was your first job at Copper and  
23 Brass?

24 A. It was order clerk.

1 Q. All right. Duties and  
2 responsibilities-wise, how is the order clerk  
3 position different than the warehouse clerk  
4 position?

5 A. They were the same, basically.

6 Q. What about from the packer position?

7 A. Each station had certain jobs and duties  
8 to process orders, and that's what I'm trying to  
9 say.

10 Q. So for example, there was something  
11 referred to as the RWB station?

12 A. RBW station, yes, sir. That's rod, bar,  
13 and wire.

14 Q. Did you ever work at that station?

15 A. That's where I started, and that's where  
16 I was when I was terminated.

17 Q. And when you worked at the rod, bar, and  
18 wire -- we'll refer to it as the RBW station, if you  
19 don't mind -- what position did you hold?

20 Was it the warehouse clerk position?

21 A. Yes.

22 Q. And what were your duties and  
23 responsibilities at the RBW station?

24 A. To pack the orders. To measure it and

1 pack it and weigh it.

2 Q. And these were orders that were being  
3 sent to Copper and Brass' various customers?

4 A. Yes, sir.

5 Q. Would also some of the orders be sent to  
6 the other Copper and Brass distribution centers?

7 A. Sure. Transfers.

8 Q. So you indicated that the RBW station,  
9 your responsibilities consisted of packing,  
10 weighing, and measuring the product?

11 A. Yes.

12 Q. Anything else?

13 A. That's basically it.

14 Q. And you said, Mr. Wingo, at the time that  
15 you were terminated in December of 2007, you were  
16 working at the RBW station?

17 A. Yes.

18 Q. How long, at the time you were  
19 terminated, had you been working at that station?

20 A. At that station, maybe two years.

21 I was packing previous in a different  
22 area.

23 Q. And for the last two years up to the time  
24 you were terminated, did you have the same

1 supervisor?

2 A. Yes.

3 Q. And that would have been Mr. DeMien?

4 A. Correct.

5 Q. And what shift were you working on at  
6 that time?

7 A. Always the first shift.

8 Q. And what were the hours of the first  
9 shift?

10 A. 6:00 to 2:30.

11 Q. So throughout your employment at Copper  
12 and Brass, you worked the first shift?

13 A. Yes, sir.

14 I had two weeks on second shift when I  
15 first started.

16 Q. But after that it was all the first  
17 shift?

18 A. Correct.

19 Q. Okay. All right.

20 Now, you said prior to working at the RBW  
21 station, you were packing in a different area.

22 A. Yes.

23 Q. Where would that have been, sir?

24 A. That was -- actually, it was a multiple

1 area. I packed for the saws and for the shears.

2 Q. And was that area called something in  
3 particular?

4 A. What did they call it? I guess it was  
5 just another packing station.

6 Q. And how long were you in that other  
7 packing station?

8 A. That one, I was there for maybe  
9 five years, five to seven years, roughly.

10 Q. And why were you moved from that packing  
11 area to the RBW area?

12 A. Well, one of the guys that was -- well,  
13 let's see. At that time -- that one may have been  
14 just for a change. One guy wanted to get out of  
15 there, and I offered to switch with him and we  
16 changed.

17 Q. Do you remember who that was?

18 A. Lance Amack.

19 Q. And at the time you left, at the time you  
20 were terminated in December of 2007, was Mr. Amack  
21 still working at Copper and Brass?

22 A. Yes.

23 Q. And do you know if he's still employed at  
24 Copper and Brass?

1 A. I think so, yes.

2 Q. Was Mr. Amack working there when you were  
3 hired in, back in 1984?

4 A. No.

5 Q. He was hired after you came in?

6 A. Yes, sir.

7 Q. How long after you were hired do you  
8 recall Mr. Amack being hired at Copper and Brass?

9 A. I think he was there for the last  
10 10 years, so around roughly my 15th year, 14th, 15th  
11 year, they hired Lance.

12 Q. When you left, was Mr. Amack also a  
13 warehouse clerk?

14 A. Yes.

15 Q. Do you know if Mr. Amack is older or  
16 young than you?

17 A. Lance is older.

18 Q. Do you know how old Mr. Amack is?

19 A. I think he's 64 or something like that.

20 Q. All right. So let's talk for a moment a  
21 little bit further about this, when you worked in  
22 the shear and saw area.

23 What were your duties in that area?

24 A. Basically the same. You were order

1 clerks, so you would pack orders.

2 Q. And so --

3 A. Processed orders.

4 Q. So when you talk in terms of process  
5 orders, that means you'd be packing, weighing, and  
6 measuring?

7 A. Correct.

8 Q. Okay. And with regard to those duties,  
9 there's a clerical function?

10 A. Yes.

11 Q. And what would the clerical --

12 A. PK10.

13 Q. Okay. And that's the data entry function  
14 you described before?

15 A. Yes.

16 Q. Was there any paperwork that you had to  
17 keep while working in that position?

18 A. Production sheets.

19 Q. Those would be the daily production logs?

20 A. Yes.

21 Q. And that's something all warehouse clerks  
22 had responsibilities to maintain during their  
23 shifts?

24 A. Yes. And operators, too, so operators.

1 Q. With regard to the PK10 function, you  
2 indicated that data would go into the company's  
3 computer system, correct?

4 A. Yes.

5 Q. And so the data, if I understand what  
6 you've testified to about that, Mr. Wingo, is you'd  
7 be, what, entering the work order number?

8 A. Correct.

9 Q. The weight of the product?

10 A. Correct.

11 Q. Possibly a number of pieces --

12 A. Yes.

13 Q. -- of the product?

14 Anything else?

15 A. That's it, basically, the billing  
16 process, whether it was pieces or weight; and you  
17 would put, where you put it, maybe location, or you  
18 would put -- sign your name, your initials.

19 Q. When you talk in terms of pieces or  
20 weight, we're talking, first of all, about the metal  
21 product that Copper and Brass was selling to its  
22 various customers, correct?

23 A. Correct.

24 Q. And sometimes customers would want you to

1 process the order based on piece number, correct?

2 A. Yes.

3 Q. Okay. Sometimes they'd want you to do it  
4 based on weight?

5 A. Yes.

6 Q. And how would you know that?

7 A. It would usually be in the billing blank.

8 There would be a blank space in the work order for  
9 billing, and that's usually where that would say how  
10 is it billed. And that's usually your  
11 discriminating factor, as far as how you, what is it  
12 billed by.

13 Q. So when you talk about the billing order,  
14 we're talking about, it's also the work order that  
15 the company would give you?

16 A. Could you rephrase that, please?

17 Q. Well, let me ask you this: You just said  
18 there was a source that had various information that  
19 you would know the customers' needs and demands,  
20 correct?

21 A. Yes.

22 Q. Was that found on a work order?

23 A. Yes. It would be under billing.

24 Q. And you would have that at your work

1 station?

2 A. It would be the work order. That's the  
3 actual work order, how it was billed.

4 Q. And were you supposed to review that,  
5 before you would package the materials and have it  
6 shipped off?

7 A. No, you just basically look at it when  
8 you PK10, and when you're doing your PK10, your data  
9 entry. That's where it would come out more than  
10 anything.

11 Q. All right. So you'd take the work order,  
12 and you'd look at the information on the work order,  
13 and you'd enter that on the PK10?

14 A. Correct.

15 Q. And you would agree, it would be  
16 important for you to accurately enter that  
17 information, because the company would rely on that  
18 data, correct?

19 A. Yes, sir.

20 Q. And the company would rely on that data  
21 for, among other things, to track its inventory,  
22 correct?

23 A. Exactly.

24 Q. All right. So you indicated, Mr. Wingo,

1 Q. With regard to the PK10 process, the  
2 information that you would input into the computer,  
3 did the company also rely upon that information to  
4 service and bill their customers?

5 A. Yes.

6 Q. At the time in the fall of 2007, prior to  
7 your termination, how many orders a day were you  
8 processing, approximately?

9 A. It varied, according to the work flow. I  
10 mean it's hard to put numbers.

11 I know that with the economy going bad,  
12 the numbers went down. I mean in previous times I'd  
13 done over a hundred orders.

14 Q. Let's focus on the fall of 2007.

15 What would be the range of the least  
16 amount of orders and the most amount of orders you  
17 might have done?

18 A. One day at Thanksgiving one guy had eight  
19 orders. I had 12 that day. It was right before  
20 Thanksgiving, so it was a very slow time. A lot of  
21 companies had shut down, so that was the low  
22 watermark for me probably was like 8 or 10 or 12.

23 And the high watermark was 25 to 35, you  
24 know, it depends. It was just always different.

1 Q. Now, you indicated that the economy was  
2 going down in the fall of 2007?

3 A. Yes. I noticed a downturn in orders.

4 Q. So you noticed that at Copper and Brass  
5 there was a decline in orders?

6 A. Exactly.

7 Q. Was there any greater concern at Copper  
8 and Brass at that point about the need to more  
9 carefully service the customers and make sure their  
10 quality and orders were being properly processed?

11 A. Yes, and that always was an issue for  
12 accuracy.

13 Q. So coming back to your daily production  
14 log, what information would you put on that?

15 A. You would put the work order number and  
16 the, what was -- the pieces and weight, I believe it  
17 was. I don't have one in front of me, but I believe  
18 it was basically the pieces and the weight --

19 Q. Okay.

20 A. -- that you shipped out, and then any  
21 notes that went along with it, you know.

22 Q. What type of notes would you put on it?

23 A. Well, sometimes the orders were bent  
24 metal, or sometimes you weren't able to totally

1 note. You know, sometimes you would write it on  
2 your, on your paper, you know, your production  
3 sheet. You didn't always have time, then you tried  
4 to relay it to the guys who would walk by.

5 Sometimes the guys would come in early, so you could  
6 verbally tell them. You know, it wasn't always the  
7 same process. It was sometimes a combination.

8 Q. And you would agree, like the data  
9 entered for PK10'ing, the information you put on  
10 your daily production logs, it was important for it  
11 to be accurate?

12 A. As much as possible, sure.

13 Q. It was important to be accurate, again,  
14 because the next shift might have to do something,  
15 right?

16 A. Yes.

17 Q. And also the daily production log I'm  
18 assuming was also used to track inventory?

19 A. Yes.

20 That's -- okay.

21 Q. The RWB station, is that considered to be  
22 a non-processing work station?

23 A. Yes.

24 Q. And the shear and saw area that you

1 grievance and somewhere between termination.

2 Q. All right. So again, just so the record  
3 is clear, we're talking in terms of the harassment  
4 grievance. That's the grievance where you  
5 complained about Mr. DeMien swearing at you?

6 A. Yes, sir.

7 Q. So let's see if we can be a little bit  
8 more surgically precise.

9 When was it that Mr. Lunt might have  
10 offered you the helper position?

11 A. Probably in October sometime.

12 Q. And was this something he offered you --

13 A. October, November.

14 Q. So when was it that you recall Mr. Lunt  
15 offering you the helper position?

16 A. It was probably either end of October,  
17 November or early December, somewhere in there;  
18 right around the last month or so.

19 Q. And is this something he offered you in  
20 person?

21 A. Yes.

22 Q. Was anybody else present?

23 A. I think Mark was there.

24 Q. Mr. DeMien?

1 A. Mr. DeMien.

2 Q. And where did the meeting take place?

3 A. In Randy's office.

4 Q. And what do you recall Mr. Lunt telling  
5 you?

6 A. That, that, you know, that they would  
7 make me a general warehouse helper --

8 Q. And what did you respond?

9 A. -- if I made mistakes.

10 Yeah, um, I responded, saying that I  
11 couldn't take it, because it was a cut in pay. It  
12 was a loss of pay, and I couldn't afford to do it.

13 Q. How much of a loss in pay?

14 A. Like three bucks an hour.

15 Q. And had you already been disciplined on a  
16 number of occasions in the fall of last year, when  
17 he had this conversation with you?

18 A. Pertaining to discipline how?

19 Q. Let me ask you this: You saw the  
20 complaint that was filed by your attorney in this  
21 case?

22 A. Do you mean -- I'm not sure what you  
23 mean.

24 Q. The papers starting this lawsuit, did you

1 and then it appears apparently you X'd out the box

2 "I disagree with this statement," correct?

3 A. Yes, sir.

4 Q. And this document indicates that you were  
5 being suspended one day for lack of production on  
6 January 29, 1999, correct?

7 A. That's what it says, but Randy gave me a  
8 vacation day for this day.

9 Q. Well, regardless, this document says  
10 you're being suspended for a day, doesn't it?

11 A. Yes.

12 Q. And it indicates -- where were you  
13 working, first of all, on January --

14 A. That's a good question.

15 And it looks like it was kind of a  
16 floater-type position. It was a time in '99 when  
17 the economy was real bad, and there wasn't many  
18 orders, and they had a big layoff around this time.  
19 So there was, there was not many orders and stuff,  
20 it was a slow time for the company. They closed  
21 down second and third shift.

22 Q. And you would agree, this document  
23 indicates that you have a long history of wasting  
24 time, being away from your work station --

1 A. No.

2 Q. You don't recall being suspended in  
3 July of 1999 by Copper and Brass?

4 A. No.

5 Q. Are you suggesting this document was  
6 fabricated by Copper and Brass?

7 A. There's no one that signed it.

8 Q. Again, I'm going to ask you to answer my  
9 question. It merely calls for a yes or no.

10 A. What's the question?

11 Q. The question was, are you suggesting that  
12 this document was fabricated by Copper and Brass?

13 A. It's not a yes or no answer. It's I  
14 don't know, because there's no one that signed it.  
15 Anyone could have wrote it. I didn't sign it, it's  
16 a -- you know.

17 Q. Well, it's not quite accurate, when you  
18 say no one signed the document.

19 Isn't Pete LaRocco's signature on the  
20 bottom of the page?

21 A. Yes, LaRocco is there, but no supervisor;  
22 and myself, I did not sign it.

23 Q. And again, I'm going to -- Mr. Wingo, I'm  
24 going interrupt again. I'm going to again ask you

1 talking.

2 Q. Do you know whether or not he had any  
3 notes taken at that meeting or prepared for that  
4 meeting or after that meeting?

5 A. I, I didn't see him reading or anything,  
6 no. I think he was just talking.

7 Q. Again, coming back to my question, do you  
8 know if Randy Lunt prepared any notes before or  
9 after that meeting, pertaining to that meeting?

10 A. He could have prepared them afterwards.  
11 I didn't see him reading anything at the time.

12 Q. So you don't whether or not Randy Lunt  
13 had notes that he prepared before or after that  
14 meeting, do you?

15 A. No, because he was just standing up there  
16 talking.

17 Q. What are repetitive errors?

18 A. Errors that you make again. Almost every  
19 error in the place is repetitive, to some extent,  
20 because --

21 Q. Were you ever disciplined for repetitive  
22 errors?

23 A. Yes.

24 Q. Were any other employees ever disciplined

1 for repetitive errors?

2 A. I don't know.

3 Q. There were work rules at Copper and  
4 Brass?

5 A. Yes.

6 Q. Did you ever receive any copies of the  
7 work rules?

8 A. Yes.

9 Q. And the work rules, there were different  
10 categories of work rules?

11 A. Yes.

12 Q. There's a categories A, B, C, and D,  
13 correct?

14 A. Correct, yes.

15 Q. And D was considered to be the most  
16 serious work rule to be violated?

17 A. Possibly. I think so.

18 Q. If you violated work rule D, could that  
19 subject you to immediate termination?

20 A. Is that the one? I don't have total  
21 recall on the rules, but it could be.

22 Q. When was the last time you saw the work  
23 rules at Copper and Brass?

24 A. You know, I was never in trouble, so I

1 Q. Would you agree that you were disciplined  
2 more than ten times while you were employed at  
3 Copper and Brass?

4 A. No. I doubt it.

5 Q. Okay. How does your disciplinary record  
6 compare to other employees at Copper and Brass?

7 A. Well, I lasted 24 years, so in comparison  
8 to other employees, it was excellent.

9 Q. Well, let's ask about you now, sir, about  
10 other people's disciplinary records.

11 While you were employed at Copper and  
12 Brass, did you have access to any other employees'  
13 personnel files?

14 A. No.

15 Q. Have you ever reviewed any other  
16 employee's personnel file?

17 A. No.

18 Q. Okay. So how do you know that your  
19 disciplinary record, in comparison to other  
20 employees, was better than theirs?

21 A. Because while I worked there, there was  
22 nearly 300 people that were fired or let go in some  
23 capacity, both sales and warehouse. I lasted  
24 24 years, so I would consider my tenure excellent,

1 time --

2 A. Give me another 30 seconds.

3 Q. I really don't have any very specific  
4 question. It should take about 30 seconds.

5 A. Okay, but this is kind of important stuff  
6 here, though.

7 Okay.

8 Q. So you've had a chance to kind of quickly  
9 review Exhibit 7, which is the complaint filed on  
10 your behalf?

11 A. Yes, sir.

12 Q. Have you seen that document before?

13 A. Yes.

14 Q. Okay. And is there anything in there  
15 that is not accurate?

16 A. No. I think it's pretty good, except for  
17 there was a couple of names that were omitted from  
18 number 12.

19 Q. Okay. What names were omitted from  
20 number 12?

21 A. Lizardo, Hernandez, and Ray Cather.

22 Lizardo, you want me to spell that?

23 It's just how it sounds, actually.

24 Q. L-I-Z-A-R-D-O?

1 A. Correct, Hernandez.

2 Q. And Ray Cather?

3 A. Cather with a C.

4 Q. So other than those two additions, the  
5 complaint otherwise is accurate?

6 A. I believe so.

7 Q. Okay. All right. So let me ask you  
8 this: Do you know, do you recall working with a  
9 gentleman named Scott Orsic?

10 A. Yes.

11 Q. Who was Scott Orsic?

12 A. Scott Orsic was plant manager maybe  
13 10 years ago, before Randy Lunt.

14 Q. And did Mr. Orsic ever discipline you?

15 A. Possibly.

16 Q. Do you remember what he might have  
17 possibly disciplined you for?

18 A. I'm not sure.

19 Q. Let's --

20 A. I was there for 24 years. It's hard to  
21 have total recall.

22 MR. LINDEN: Let's mark this Exhibit Number 8,  
23 please.

24 (WHEREUPON, a certain document was

1 marked Wingo Deposition Exhibit No. 9,  
2 for identification, as of this date.)

3 (WHEREUPON, the document was  
4 tendered to the witness.)

5 BY MR. LINDEN:

6 Q. All right. Exhibit 9 is discipline you  
7 were given in May of 1999, correct?

8 A. What was the -- oh, letter of counsel?

9 Okay.

10 Q. Do you recall receiving Exhibit Number 9?

11 A. Is this -- yes, yes.

12 Q. All right. So you were given that back  
13 in May of 1999, correct?

14 A. Yes.

15 Q. And it was given to you by Mr. Lunt?

16 A. Correct.

17 Q. What position did you hold at the time  
18 you received this?

19 A. I don't totally remember. It could've  
20 been -- '99, it could have -- oh, man, could have  
21 been just packing sheet. And I'm not sure where it  
22 is. Actually, he didn't say.

23 Q. Okay. Mr. Lunt notes in this counseling  
24 that you need to improve your following of the

1 corporate packing and PK10 procedures, correct?

2 A. Yes.

3 Q. And he also wrote that you've been  
4 trained and retrained, correct?

5 A. Yes.

6 Q. And your response on this document was  
7 "200 orders a week, I'm not perfect," correct?

8 That's your writing?

9 A. Yes.

10 Q. Okay. Did you file a grievance  
11 challenging this?

12 A. Basically, a verbal grievance with Randy,  
13 where we discussed the whole thing. I told him I  
14 was doing 200 orders a week, that I wasn't going to  
15 get them all correct every time.

16 Q. Did you file a written grievance, under  
17 the labor contract, challenging this discipline?

18 A. No.

19 MR. LINDEN: Let's mark that 10, please.

20 (WHEREUPON, a certain document was  
21 marked Wingo Deposition Exhibit No. 10,  
22 for identification, as of this date.)

23 (WHEREUPON, the document was  
24 Tendered to the witness.)

1 BY MR. LINDEN:

2 Q. All right. Mr. Wingo, you've been handed  
3 what has been marked Exhibit 10, which is an  
4 employee report form, dated June 15th, 1999,  
5 addressed to you.

6 Do you recall receiving this?

7 A. Yes.

8 Q. Okay. And that's your signature above  
9 the employee signature?

10 A. Yes.

11 Q. And you also indicated you disagreed with  
12 the statement, and you gave your explanation,  
13 correct?

14 A. Yes.

15 Q. Did you ever file a written grievance,  
16 under the labor contract, challenging this  
17 discipline?

18 A. No. I just let Randy know that this  
19 scale wasn't always working properly, and we tried  
20 to --

21 Q. All right, but coming back to my  
22 question, so the record's clear, you never filed a  
23 written grievance under the labor contract  
24 challenging this discipline?

1 A. No.

2 Q. And this was given to you by Randy Lunt,  
3 correct?

4 A. Yes.

5 Q. And this was a verbal warning for  
6 repetitive errors, correct?

7 A. Yes, which only means the second  
8 mistake --

9 Q. I'm going to ask you to kindly confine  
10 yourself to my question, sir.

11 A. Okay.

12 MR. LINDEN: Let's mark this Exhibit 11.

13 (WHEREUPON, a certain document was  
14 marked Wingo Deposition Exhibit No. 11,  
15 for identification, as of this date.)

16 (WHEREUPON, the document was  
17 tendered to the witness.)

18 BY MR. LINDEN:

19 Q. So you've been handed what has been  
20 marked Exhibit 11, which is an employee report form  
21 dated January 10, 2001.

22 Do you recall receiving this?

23 A. Yes.

24 Q. Was James Dunne ever your supervisor?

1 A. Yes.

2 Q. Where were you working at the time in  
3 January of 2001?

4 A. As an order clerk.

5 Q. And according to this document, this got  
6 changed from a written warning to an oral warning,  
7 correct?

8 A. Yes.

9 Oh, wait, it was, it was oral.

10 Q. Well, sir, you see at the bottom of the  
11 page, where it says "Changed to verbal"?

12 A. Nobody signed it, nobody dated it. I  
13 don't know who could have wrote that.

14 Q. Let me ask you this, sir, since you seem  
15 to be speculating about the document.

16 You see, first of all, above your  
17 signature it says, "Written Warning," with an X in  
18 it?

19 A. Yes.

20 Q. And then it's circled and written  
21 "deleted"?

22 A. Yes.

23 Q. And then above it, there's an X in the  
24 "Oral Warning" box, correct?

1 BY MR. LINDEN:

2 Q. Did you ever file a written grievance,  
3 under the labor contract, challenging this memo  
4 issued to you?

5 A. Just what I wrote on the work order.

6 Q. All right, but again, try to answer my  
7 question. My question was --

8 A. No.

9 Q. Let me ask the question, Mr. Wingo.  
10 Did you ever file a written grievance,  
11 under the labor contract, challenging your being --  
12 your receiving Exhibit 13?

13 A. Not an official grievance.

14 Q. Let's come back again to my question.

15 A. No.

16 Q. Did you ever file -- let me ask the  
17 question, Mr. Wingo. And in a minute my patience is  
18 about to run out on this, and we're just going to  
19 terminate the deposition.

20 My question is very simple, and again, if  
21 you don't understand my question, let me know. My  
22 question is, did you ever file a written grievance  
23 under the labor contract, challenging your receipt  
24 of Exhibit 13?

1 A. No.

2 MR. LINDEN: Let's mark this Exhibit 14,  
3 please.

4 (WHEREUPON, a certain document was  
5 marked Wingo Deposition Exhibit No. 14,  
6 for identification, as of this date.)

7 (WHEREUPON, the document was  
8 tendered to the witness.)

9 BY MR. LINDEN:

10 Q. You've been handed by the court reporter,  
11 Mr. Wingo, what has been marked Exhibit 14, which is  
12 a November 7, 2001 letter of counsel addressed to  
13 you.

14 Have you seen this document before?

15 A. Yes.

16 Q. Is that your signature?

17 A. Yes.

18 MR. LINDEN: Let's mark this Exhibit 15.

19 (WHEREUPON, a certain document was  
20 marked Wingo Deposition Exhibit No. 15,  
21 for identification, as of this date.)

22 (WHEREUPON, the document was  
23 tendered to the witness.)

24 BY MR. LINDEN:

1 discipline that it was your first error in five  
2 years, sorry, will watch closer.

3 A. I was being sarcastic.

4 Q. You were being sarcastic in your  
5 response?

6 A. Yes.

7 Q. Did you ever file a written grievance,  
8 under the labor contract, challenging this written  
9 warning that you were given?

10 A. No.

11 Q. This was, this was given to you by  
12 Mr. Lunt?

13 A. Yes.

14 Q. Okay. Where were you working at the time  
15 that you were given this?

16 A. It's hard to say. I mean I was -- I had  
17 many various jobs. I'm thinking this was probably  
18 still at the shear sheet and RBW packing station.  
19 This was a packing station, probably.

20 I was packing 40 orders a day, so  
21 sometimes I made mistakes.

22 Q. Mr. Wingo, I'm going to ask you to please  
23 wait until I pose a question. Thanks.

24 MR. LINDEN: Let's mark this Exhibit 21,

1 received this?

2 A. I said already that I was at, probably at  
3 one of the packing stations.

4 Q. And you weren't issued a suspension at  
5 this time, correct, it was actually a, issued a  
6 written warning?

7 A. Yes, sir.

8 Q. Did you file a written grievance  
9 challenging this written warning?

10 A. No, I didn't.

11 Q. You wrote an explanation, yet you refused  
12 to sign it, correct?

13 A. Yes.

14 Q. And this was issued to you by Mr. DeMien,  
15 correct?

16 A. Yes.

17 Q. So Mark DeMien was supervising you at  
18 least as far back as September of 2004?

19 A. Yes, sir.

20 Q. But you didn't have any problems with  
21 Mark DeMien until August of 2007, correct?

22 A. Correct.

23 MR. LINDEN: Let's please mark this Exhibit 22.  
24 (WHEREUPON, a certain document was

1 A. That I did 175 work orders a week, and  
2 sorry if I will make -- if I made some mistakes.

3 Q. Did you file a written grievance, under  
4 the labor contract, challenging getting this  
5 written -- not written, oral warning?

6 A. No.

7 Q. And in May of 2005, do you recall where  
8 you would have been working at the time?

9 A. That could have either still been the  
10 previous packing area that we talked about or the  
11 RBW area. I wasn't real sure on which one that was.

12 (WHEREUPON, the deposition  
13 was recessed until 1:10 p.m.,  
14 this date.)

15 MR. LINDEN: Let's go back on the record,  
16 please.

17 BY MR. LINDEN:

18 Q. Now, as I understand your claim in this  
19 case, Mr. Wingo, you're claiming that the company  
20 discriminated against you on the basis of your age,  
21 correct?

22 A. Yes, yes, sir.

23 Q. And you're claiming, among other things,  
24 they terminated you because of your age, correct?

1 A. Yes.

2 Q. And you're also claiming that in the fall  
3 of 2007 they disciplined you because of your age?

4 A. Yes.

5 Q. Okay. Who is it at the company you're  
6 claiming decided to terminate you because of your  
7 age?

8 A. I'm not sure exactly who the main ones  
9 were or if it was three people. You know, my  
10 bosses, that's all I know. Randy Lunt.

11 Q. You said "three people."

12 Who could the three people possibly have  
13 been?

14 A. Mark DeMien, the day shift foreman;  
15 Randy Lunt, the plant supervisor; and I don't know  
16 who else, actually.

17 Q. All right.

18 Do you know who actually made the  
19 decision to terminate you?

20 A. No.

21 Q. Do you know how old Randy Lunt is?

22 A. Yeah, he's my age.

23 Q. So he's what, roughly 54 years old?

24 A. Yes.

1 A. Yes.

2 Q. And there's a work rule pertaining to  
3 falsifying company documents?

4 A. Correct.

5 Q. Okay. That's a work rule subject to  
6 immediate termination, correct?

7 A. Yes.

8 Q. Okay. Excessive errors, that's a  
9 different work rule, right?

10 A. Yes.

11 Q. Okay. And there's progressive discipline  
12 that would be subject to that?

13 A. Yes.

14 Q. And you'd only get discharged after being  
15 disciplined for the fourth time for that, correct?

16 A. Okay, sure. Yes.

17 Q. Okay.

18 MR. LINDEN: Let's mark this Exhibit 23, if we  
19 could, please.

20 (WHEREUPON, a certain document was  
21 marked Wingo Deposition Exhibit No. 23,  
22 for identification, as of this date.)

23 (WHEREUPON, the document was  
24 tendered to the witness.)

1 BY MR. LINDEN:

2 Q. Mr. Wingo, you have been handed what has  
3 been marked Exhibit 23, which is an employee report  
4 form dated 12/1/05, to you, from Mark DeMien.

5 Excuse me for a minute.

6 MR. LINDEN: We're going to have to go off the  
7 record.

8 (Telephone interruption.)

9 BY MR. LINDEN:

10 Q. All right. Sorry about the interruption.  
11 So you now have in front of you, in your  
12 hand, Exhibit 23.

13 Have you seen this document before?

14 A. Yes.

15 Q. And that's your handwriting under, "I  
16 disagree with statement"?

17 A. Yes.

18 Q. Did you ever file a written grievance  
19 relative to this discipline?

20 A. No.

21 Q. And Mark DeMien gave you this discipline?

22 A. Yes.

23 Q. And were you working at the RBW area at  
24 the time --

1 A. No, this was at the PVC machine.

2 Q. Okay. Where is the PVC machine relative  
3 to the RBW area?

4 A. Opposite side of the building. One's in  
5 the front by the receiving doors, and one's in the  
6 back of the building, on the opposite side.

7 Q. Is theft a dischargeable offense at  
8 Copper and Brass?

9 A. I think so.

10 Q. And is theft an offense that you could be  
11 terminated for the first occurrence?

12 A. Yes.

13 Q. Were you ever accused of any theft?

14 A. No.

15 Q. Did anybody ever accuse you of taking  
16 company property without permission?

17 A. No, just -- the only things were like  
18 wood, but Randy okayed all that. He always said I  
19 could take the firewood.

20 MR. LINDEN: Let's mark this as Exhibit 24,  
21 please.

22 (WHEREUPON, a certain document was  
23 marked Wingo Deposition Exhibit No. 24,  
24 for identification, as of this date.)

1 (WHEREUPON, the document was  
2 tendered to the witness.)

3 BY MR. LINDEN:

4 Q. You've been handed by the court reporter  
5 what has been marked Exhibit 24, which is, for  
6 purposes of identification, is an employee report  
7 formed dated March 28, 2006, addressed to you from  
8 Mark DeMien.

9 Have you ever seen this document before?

10 A. Yes.

11 Q. And that's your signature above "Employee  
12 Signature"?

13 A. Yes.

14 Q. Do you recall receiving this?

15 A. Yes.

16 Q. And this was prompted by Mark DeMien  
17 apparently being concerned about you taking  
18 six pieces of cut masonite.

19 A. Yeah. They were in the garbage. They  
20 were thrown out, and I was taking them home.

21 Q. Did you ever file a grievance about  
22 receiving this?

23 A. This? No. He just said bring it back,  
24 so I did.

1 Q. But regardless, Mr. DeMien is the person  
2 who disciplined you for this, correct?

3 A. Yes.

4 Q. And it was a written warning?

5 A. Yes.

6 Q. Okay. Now, at various points Jim Dunne  
7 was your supervisor?

8 A. Yes.

9 Q. How old is Jim Dunne?

10 A. Maybe 35, something like that, when he  
11 was there. I'm not sure exactly.

12 Q. Was he still working there when you left?

13 A. No. Jim got fired.

14 Q. Do you know what he got fired for?

15 A. I'm not exactly sure.

16 Q. Now, I believe earlier today you  
17 indicated during the course of your career there  
18 were some 300 or so people you worked with?

19 A. Roughly, yes.

20 Q. And I'm assuming, of those 300 people,  
21 some of them got terminated?

22 A. Oh, yes.

23 Q. Any of those people who got terminated  
24 younger than you?

1 A. Probably.

2 Q. Let me show you what I'm going to have  
3 the court reporter mark as Exhibit 25.

4 (WHEREUPON, a certain document was  
5 marked Wingo Deposition Exhibit No. 25,  
6 for identification, as of this date.)

7 (WHEREUPON, the document was  
8 tendered to the witness.)

9 BY MR. LINDEN:

10 Q. You've been handed what has been marked  
11 Exhibit 25. It's -- for purposes of identification,  
12 it's an employee report form dated September 12th,  
13 addressed to you.

14 Is that your signature on this?

15 A. Yes.

16 Q. And this was an oral warning given to you  
17 by Mr. Dunne?

18 A. Yes.

19 Q. Did you ever file a written grievance,  
20 under the labor contract, challenging this  
21 discipline?

22 A. No.

23 MR. LINDEN: Let's please mark this Exhibit 26.  
24 (WHEREUPON, a certain document was

1 marked Wingo Deposition Exhibit No. 26,  
2 for identification, as of this date.)

3 (WHEREUPON, the document was  
4 tendered to the witness.)

5 BY MR. LINDEN:

6 Q. You've been handed what has been marked  
7 Exhibit 26, Mr. Wingo, which, for purposes of  
8 identification, is an employee report form, dated  
9 June 22, 2007 addressed to you, issued by  
10 Randy Lunt.

11 Have you seen this document before?

12 A. Yes.

13 Q. Okay. Is that your signature above  
14 "Employee Signature"?

15 A. Yes.

16 Q. So you received a copy of this?

17 A. Yeah.

18 Q. Did you ever file a written grievance  
19 challenging this verbal warning you were given?

20 A. No.

21 Q. This was a verbal warning given to you by  
22 Randy Lunt for repetitive work orders?

23 A. Yes.

24 Q. And your response was you disagreed with

1 out"?

2                   Was this discipline ever removed from  
3 your record?

4           A.     Evidently not, no.

5           Q.     And you never filed a written grievance  
6 challenging it?

7           A.     No.

8           Q.     Okay. When you PK10 an order, and the  
9 order from the customer requires it to be by piece  
10 as opposed to weight, are you supposed to data entry  
11 the number of pieces on that order?

12          A.     Correct.

13          Q.     Okay. And if the work order specifies  
14 the customer wants you to do it by piece and not by  
15 weight, when you fill the order, are you supposed to  
16 fill it by piece or by weight?

17          A.     If it's billed by piece, you fill it by  
18 piece.

19          Q.     And the order will indicate as such?

20          A.     The work order, yes. It should have it  
21 on there that that's billed by the piece, so you  
22 want to key punch by the piece.

23          Q.     Okay. Did you ever have any discussions  
24 with Mark DeMien about the importance of accurately

1 and reliably doing the PK10 process?

2 A. Sure.

3 Q. On more than one occasion?

4 A. Yes.

5 MR. LINDEN: Let's mark this, please, as

6 Exhibit 27.

7 (WHEREUPON, a certain document was  
8 marked Wingo Deposition Exhibit No. 27,  
9 for identification, as of this date.)

10 (WHEREUPON, the document was  
11 tendered to the witness.)

12 BY MR. LINDEN:

13 Q. You've been handed, Mr. Wingo, what has  
14 been marked Exhibit 27, which, for purposes of  
15 identification, is an employee report form dated  
16 October 4, 2007, addressed to you from Mr. DeMien.

17 Is that your signature on this?

18 A. Yes.

19 Q. Did you receive a copy of it?

20 A. Yes.

21 Q. This was a written warning issued you by  
22 Mr. DeMien in October of 2007, correct?

23 A. Yes, I was working with another employee,  
24 and the labels got switched.

1 wait until I ask you questions, Mr. Wingo.

2 A. Sure.

3 Q. All right. Now, this discipline  
4 references the fact that you had previously received  
5 the oral warning on June 22, 2007, correct?

6 A. Yes.

7 Q. And that was Exhibit 26, which we just  
8 got done talking about?

9 A. Yes.

10 Q. Okay. And like that, you never filed a  
11 written grievance challenging this written warning  
12 issued to you, correct?

13 A. Correct.

14 Q. And under the labor contract, if you  
15 wanted to you could have filed a grievance  
16 challenging the issuance of this discipline,  
17 correct?

18 A. Correct.

19 Q. And you had your union steward present  
20 when you got this discipline?

21 A. Yes. He signed it.

22 Q. Now, are you claiming Mark DeMien gave  
23 you this discipline on October 5, 2007, because he  
24 was discriminating against you because of your age?

1 A. Not all the errors were because of age.

2 I mean this error was a mistake, and people make  
3 mistakes. So I mean I made a mistake, it was in  
4 there.

5 Q. So you don't contest the fact that you  
6 made a mistake which resulted in your discipline,  
7 correct?

8 A. Correct.

9 Q. Okay. But are you claiming that  
10 Mr. DeMien gave you this discipline because of your  
11 age?

12 A. This discipline?

13 Q. Correct.

14 A. No. I can't prove that.

15 MR. LINDEN: Let's mark this Exhibit 28.

16 (WHEREUPON, a certain document was  
17 marked Wingo Deposition Exhibit No. 28,  
18 for identification, as of this date.)

19 (WHEREUPON, the document was  
20 tendered to the witness.)

21 BY MR. LINDEN:

22 Q. All right. Mr. Wingo, you've been handed  
23 by the court reporter what has been marked  
24 Exhibit 28. For purposes of identification, it's an

1 employee report form, dated October 10, 2007,  
2 addressed to you from Mr. DeMien.

3 You received a copy of this?

4 A. Yes.

5 Q. And that's your signature above the  
6 employee signature?

7 A. Yes, sir.

8 Q. And when Mr. DeMien gave this to you, did  
9 he give it to you in person?

10 A. I don't remember. Probably.

11 Q. And was Mr. LaRocco, your union steward,  
12 present?

13 A. Yes.

14 Q. Do you remember where the three of you  
15 might have met?

16 A. Could have been in one of the offices.

17 Q. But you don't recall for certain?

18 A. Probably the office, his office, Mark's  
19 office.

20 Q. Okay. And at the time you were issued a  
21 one-day suspension?

22 A. Yes.

23 Q. Did you file a grievance, under the labor  
24 contract, challenging your one-day suspension?

1 A. No.

2 Q. And you could have, if you had wanted to,  
3 correct?

4 A. Yes. I guess. I wasn't totally aware  
5 that you could file a grievance on every written  
6 reprimand.

7 Q. Well, let me ask you this, Mr. Wingo --

8 A. I mean I just never did it.

9 Q. Did you ask Mr. LaRocco to file a  
10 grievance for you?

11 A. No. He didn't offer, I didn't ask.

12 Q. Okay. And you had received a copy of the  
13 labor contract?

14 A. Yes.

15 Q. And you had filed grievances before,  
16 under the contract, correct?

17 A. Occasionally. Only a couple.

18 Q. When you say "a couple," how do you  
19 define a couple?

20 A. I was there 24 years, I probably filed  
21 two or three.

22 Q. Okay. When's the last time you filed a  
23 grievance, relative to your termination?

24 A. The two years before that we had

1 discussed earlier.

2 Q. Concerning Mr. Catama?

3 A. Yes, sir.

4 Q. So that would have been in 2005?

5 A. Yes. And at the moment that's the only  
6 other one I can recall in 24 years.

7 Q. Fair enough. Now, under "Employee  
8 Statement" on Exhibit 28, that's your writing?

9 A. Yes.

10 Q. And so you were giving an explanation as  
11 to what had happened, correct?

12 A. Yes. It shouldn't have came to my area.  
13 It was a cut order that should have went to a whole  
14 other area. The operator made a mistake.

15 Q. Who was the operator at the time?

16 A. This, I believe this one was Tyler  
17 DeMien, a younger, a younger operator.

18 Q. Regardless of the fact, you did write on  
19 this document, did you not, you should have caught  
20 the mistake?

21 A. We both should have caught the mistake.

22 Q. I'm not asking if you both should have  
23 caught the mistake.

24 You wrote on this document, did you not,

1 you should have caught the mistake?

2 A. Yes.

3 Q. Now, do you know if Mr. DeMien received  
4 any sort of counseling, verbal or otherwise, as a  
5 result of this incident?

6 A. As far as I know, no, because he didn't  
7 sign the order, so they didn't know who did it.

8 Q. Well, did you tell anybody who did it?

9 A. I think I told his dad, and that's why  
10 his dad would get mad at me, because I would tell  
11 him that his son is pulling the wrong stuff.

12 Q. So father and son are working together.

13 Mark DeMien is the supervisor of his son, Tyler  
14 DeMien?

15 A. Yes.

16 Q. Did he ever show any favoritism to his  
17 son, as a result?

18 A. Well, he let him break company rules by  
19 talking on his cell phone. We weren't supposed to  
20 have cell phones on the floor. We weren't supposed  
21 to talk on our cell phones while we're on the clock,  
22 only at break time. And he would continuously let  
23 him talk, sitting in the Jeep in the building. He  
24 would let him leave the building on -- not on break

1 and go out back and talk on the cell phone.

2 Q. Did any of your fellow employees ever  
3 complain to you that they thought Mark DeMien was  
4 showing favoritism toward his son?

5 A. Sure, lots of people.

6 Q. Who do you recall making those  
7 complaints?

8 A. Other workers that worked in the area.

9 Q. Such as?

10 A. Al Herrera.

11 Q. Who else?

12 A. The guys I work with mainly, Ray Cather.

13 But he used to do it, too, so he didn't complain too  
14 much, because he did it. But I'd say, where's  
15 Tyler? He'd say, he's outside talking to his  
16 girlfriend on his cell phone.

17 But Ray got away with it, too, and Ray  
18 was a younger guy, and they were friends; so, you  
19 know, they were allowed to do these things.

20 Q. All right, but who else besides Al  
21 Herrera and Ray Cather complained that Mark DeMien  
22 was showing favoritism towards his son --

23 A. Probably Lance Amack, too, he would know.

24 Q. Anybody else?

1 A. A lot of people knew it. I don't know,  
2 specifically, if they would be involved in the --  
3 you know, I mean it was just a general given on this  
4 type of a deal.

5 Q. With regard to discipline for cell phone,  
6 you would agree, all the discipline I've shown you  
7 so far that you've received, none of it was for  
8 talking on the cell phone, correct?

9 A. Correct.

10 Q. Were you ever formally disciplined for  
11 talking on your cell phone?

12 A. No. I never brought it in the building,  
13 because it was against company rules.

14 Q. What are Tally materials?

15 A. That's a stainless steel brand, kind of  
16 like Kellogg cereal, it's a brand of stainless steel  
17 company. It's a mill.

18 Q. And I may be mispronouncing this, and  
19 I'll spell this for the court reporter in a moment.  
20 Outokumpu?

21 A. Not too bad, but it's Outokumpu.

22 Q. Okay. O-U-T-O-K-U-M-P-U.

23 Is that another stainless steel --

24 A. Actually, they do, I think they do,

1 correct thing.

2 Q. So as I understand your duties as a  
3 warehouse clerk, working at the RBW station, when  
4 you package materials -- which is part of your  
5 responsibilities, correct?

6 A. Sure.

7 Q. -- you would review the work order before  
8 you package them?

9 A. Yes.

10 Q. And on the work order would be  
11 instructions from the customer, what you should be  
12 packing?

13 A. Yes.

14 Q. And so some of the instructions would  
15 include piece, as opposed to weight?

16 A. Sure.

17 Q. It might also specify a particular  
18 manufacturer for product like stainless steel?

19 A. Yes.

20 Q. And for example, it might specify it  
21 wants Tally material only?

22 A. Sure.

23 Q. And so when you're packaging, you're  
24 supposed to be looking at the work order and then

1 packaging consistent with what the work order says?

2 A. Yes.

3 Q. Okay.

4 MR. LINDEN: Let's mark this 29, please.

5 (WHEREUPON, a certain document was

6 marked Wingo Deposition Exhibit No. 29,

7 for identification, as of this date.)

8 (WHEREUPON, the document was

9 tendered to the witness.)

10 BY MR. LINDEN:

11 Q. All right. You've been handed what has

12 been marked Exhibit 29, Mr. Wingo, which, for

13 purposes of identification, is an employee report

14 form, this one dated November 8, 2007, addressed to

15 you from Randy Lunt.

16 Have you seen this document before?

17 A. Yes.

18 Q. That's your signature above "Employee

19 Signature"?

20 A. Yes.

21 Q. Did you receive a copy of this?

22 A. Yes.

23 Q. And you were being suspended for

24 three days at the time?

1 A. Yes.

2 Q. Did you file any grievance, under the  
3 labor contract, challenging your three-day  
4 suspension?

5 A. No.

6 Q. Did you meet with Mr. Lunt, when he gave  
7 you the three-day suspension?

8 A. Yes, I did.

9 Q. Who else was present?

10 A. I believe Mark DeMien.

11 Q. Anybody else?

12 A. I'm not sure if Pete was there or if I  
13 had another employee.

14 Q. But you do recall you had some employee  
15 representative present with you?

16 A. I believe so. At the bottom there's a  
17 signature. I can't quite read it, but yes, I think  
18 so.

19 Q. Where did the meeting take place, if you  
20 can recall?

21 A. Randy Lunt's office.

22 Q. What did Mr. Lunt say during the meeting?

23 A. He said, there was a key punch error.

24 I says, yes, I caught the first one, and

1 I went up and I told Mark. I says, Mark, I  
2 accidentally hit enter on this, and it was wrong.  
3 So I said, we need to fix it.

4 So he says, we can't fix it now, it's  
5 already gone through. We'll have to reprint the  
6 order, reorder it and redo it all.

7 So we did, and I redid it all, and I took  
8 my time and made sure that I got everything correct  
9 the second time. I redid it real slow and made  
10 sure. I had to enter seven things on the second  
11 page and make sure everything was done, you know  
12 perfect.

13 So I mean this is what I do every day,  
14 and so I did it and it was right. I felt that it  
15 was totally right. I was exactly positive it was  
16 right. And then the following Monday I came in, and  
17 he said it was wrong. So.

18 Q. Who said it was wrong?

19 A. Mark DeMien.

20 Q. When you say "the following Monday," was  
21 it the day --

22 A. I believe, actually, I'm not sure of the  
23 dates exactly, but I think the order that I messed  
24 up, or they said I messed up, was Friday. This

1 order that you're looking at for this suspension was  
2 Friday, but I think the action came on the following  
3 Monday.

4 Q. Okay.

5 A. I believe that's how it all happened.

6 Q. And that's the day you met with Mr. Lunt,  
7 Mr. DeMien and some union representative?

8 A. Yes, I believe so.

9 Q. And you were informed that you were being  
10 suspended for three days for repetitive key punching  
11 errors?

12 A. Yes.

13 Q. And the errors noted on this document,  
14 you key punched in the wrong work order numbers?

15 A. No, I believe it was actually -- when you  
16 have a certain, when you have over three bundles or  
17 boxes, see, like the order, I think, was for like  
18 eight or 10 boxes, and so on the first page you can  
19 only put three, so you have to go to the second  
20 page, too. And that's where I messed up on the  
21 first one, I accidentally put enter after the first  
22 three.

23 On the second one, when I reprinted the  
24 order, brought it back, I did the original three.

1 Then, when I went to the second page, I made sure I  
2 added the extra four or five or whatever it was, to  
3 complete the order and have all eight or how many,  
4 seven or eight or how many bundles or boxes it was.  
5 So I was positive at that point that I had it all  
6 correct.

7 Q. You don't dispute the fact that you  
8 initially made an error with key punching, correct?

9 A. I mean it was -- yes, I caught it myself,  
10 I caught the first error myself.

11 Q. You don't dispute the fact there was an  
12 error made, correct?

13 A. No.

14 Q. What --

15 A. I don't dispute the fact, yes, I guess I  
16 don't dispute the fact.

17 Q. What is a certificate from a supplier?

18 A. I'm not sure what you mean.

19 Q. Are there certifications from the  
20 various --

21 A. The certs, okay, yes, certifications.

22 Q. What would that be, Mr. Wingo?

23 A. That's actually saying that it's this  
24 mill, this lot number; it's identification from the

1 Q. And the customer gets that?

2 A. Customer gets that.

3 Q. So it's important that you make sure they  
4 get all the paperwork that's required, the customer,  
5 correct?

6 A. Correct.

7 Q. That's your responsibility as a warehouse  
8 clerk?

9 A. Yes.

10 Q. Okay. Now, are you claiming, when you  
11 were given this three-day suspension, that you were  
12 being singled out because of your age?

13 A. Maybe not on this particular one.

14 Q. Did you file a written grievance, under  
15 the labor contract, contesting this three-day  
16 suspension?

17 A. No.

18 Q. You could have, correct?

19 A. Yes.

20 Q. Why didn't you?

21 A. I didn't, because before in the past,  
22 when I had filed -- I didn't file that many  
23 grievances over the years, and when I did, Randy  
24 took it lightly; he didn't always respond, so I felt

1 it was useless. So I just didn't get into the  
2 grievance procedure a lot.

3 Q. So your testimony is, over your 24 years  
4 of employment, you only filed two or three  
5 grievances?

6 A. Not too many, not too many. I don't know  
7 the exact number, but not too many.

8 Q. Did anybody ever tell you you could not  
9 file a grievance under the labor contract?

10 A. I don't think so.

11 Q. Did Randy Lunt ever tell you you could  
12 not file a grievance under the labor contract?

13 A. I don't think so.

14 Q. Now, after you were suspended for three  
15 days, when you returned to work, was there any  
16 meeting with Randy Lunt, Pete LaRocco, yourself and  
17 Mark DeMien?

18 A. I don't recall.

19 I think I may have met with Randy, but I  
20 don't remember the others being there.

21 Q. When you met with Randy, that was the day  
22 you returned from your suspension in November of  
23 2007?

24 A. Possibly, I think so.

1 Q. Where did that meeting take place?

2 A. I can't remember if he came out to the  
3 work station or if we were in the office, I don't  
4 really remember. 'Cause there was numerous meetings  
5 at times, and he would come out sometimes and just  
6 talk, and other times we would sit down.

7 Q. Do you recall, when you returned from  
8 your suspension, talking to Randy about how  
9 important it was for you to read, understand and  
10 follow all work order instructions?

11 A. Yes.

12 Q. Was anybody else present, Mr. Wingo,  
13 during the discussion?

14 A. I don't recall, I don't recall.

15 Q. Do you recall also discussing with  
16 Mr. Lunt at the time the need to key punch, PK10 all  
17 work orders correctly?

18 A. Sure, yes.

19 Q. Do you recall Mr. Lunt indicating to you  
20 that he was prepared to have Lance Amack as a tutor  
21 on these things?

22 A. He offered that, but Lance didn't work in  
23 the area, and he didn't really know the system. So  
24 that was not really a useful tool for someone to

1 show you something that they don't really know how  
2 to do themself.

3 Q. And did you indicate that opinion to  
4 Mr. Lunt, when he offered you that?

5 A. Yeah, and I told him, and he offered  
6 still to help me, and there was really no one else  
7 around that could, so.

8 Q. Was there also a discussion at that time  
9 when you met with Mr. Lunt upon your return from  
10 suspension how it was important for you to place  
11 your initials in the "filled by" box and the "packed  
12 by" box on the work order?

13 A. Yes, I was filling -- I was signing it  
14 three times, and he wanted -- I, actually I always  
15 used to sign once; then we started signing twice for  
16 "packed by" and "audit."

17 The third time was supposed to be the  
18 side loader operator guy, the "filled by" was  
19 supposed to be the side loader operator guy; but  
20 they changed policy, and they wanted me to sign it  
21 three times, and they didn't want the side loader  
22 operator guy to sign it anywhere. And it didn't  
23 make much sense, because he was part of the team, it  
24 was a team effort here. He was bringing me metal,

1 and a lot of times it was wrong. So the way I felt  
2 about it is if he could have brought me the right  
3 metal, then I wouldn't have to deal with all this.  
4 Or if he would have been accountable, I wouldn't  
5 have had to deal with all the mistakes. But the way  
6 it was, he wasn't accountable; so he could just  
7 bring anything, and it was up to me to catch all the  
8 errors.

9 Q. Again, I appreciate your embellishment  
10 there.

11 But do you recall having a discussion  
12 with Mr. Lunt, at the time you returned from your  
13 suspension, where he told you what he expected you  
14 to do about filling in the paperwork?

15 A. Randy wanted me to sign it three times,  
16 which I did do.

17 Q. Do you recall having an additional  
18 meeting after that meeting, where you attended and  
19 Mr. LaRocco attended with Mr. Lunt; and Mr. Lunt was  
20 still not satisfied with you filling out the  
21 paperwork?

22 A. A couple of them I forgot to do. It was  
23 kind of a new policy to sign it three times, and so  
24 I forgot it on a couple of them.

1 way that it was done in the past?

2 A. That was part of the deal I just  
3 explained was the guy that filled it was supposed to  
4 sign it. And then all of a sudden he wanted me to  
5 sign the "filled by"; and that guy would not appear  
6 anywhere, when, in fact, he was the guy that filled  
7 it.

8 Q. Did Mr. Lunt ever indicate to you at that  
9 time that your refusal to follow direct instructions  
10 from either your supervisor and/or his -- the plant  
11 manager, being Randy Lunt, would constitute  
12 insubordination and grounds for termination?

13 A. Yeah, and that's when I had to sign it  
14 three times, no matter what I felt about, you know,  
15 the issue.

16 Q. Was there any discussion at that time  
17 also about Mr. Lunt's concern about your lack of  
18 production?

19 A. Yes. That was around the Thanksgiving  
20 time, I believe, that we talked about, that I told  
21 you that there was --

22 Q. It's a simple yes or no, Mr. Wingo.

23 A. Okay, could you ask again, please.

24 MR. LINDEN: Can you please read back my

1 for identification, as of this date.)

2 (WHEREUPON, the document was

3 tendered to the witness.)

4 BY MR. LINDEN:

5 Q. You've been handed, Mr. Wingo, what has

6 been marked Exhibit 30, which, for purposes of

7 identification, is a memo addressed to you from

8 Randy Lunt, dated November 19, 2007, subject,

9 repetitive warehouse errors.

10 Have you ever seen this document before?

11 A. Yes.

12 Q. Do you recall Mr. Lunt providing you with

13 a copy around the date of this memo?

14 A. Yes.

15 Q. Did you ever file a grievance about

16 receiving this document?

17 A. No.

18 Q. Do you recall ever having a meeting with

19 Mr. Lunt in which you went in asking him a question

20 about a work order, which you believed should be

21 done by weight and not by piece number?

22 A. Sometimes -- yeah, sometimes there was

23 mistakes with the pieces, and the weight got messed

24 up.

1 Q. And do you remember Mr. Lunt telling you,  
2 on one such occasion in November 2007, that if the  
3 order indicated count by pieces and not by weight,  
4 you should fill it by pieces and not by weight?

5 A. Yes.

6 Q. And did you disregard Mr. Lunt's  
7 instructions --

8 A. No, I fixed, actually, I fixed the order.

9 Q. You fixed the order?

10 A. Yes. I added -- I did it by weight, I  
11 believe. It may have been when it was done by  
12 weight, so I had to change the pieces. I had to go  
13 back in and count 80 pieces.

14 Q. And this is after you had a discussion  
15 with Mr. Lunt?

16 A. It could have been.

17 Q. Well, let's see if I can refresh your  
18 memory on that.

19 MR. LINDEN: Let's mark this Exhibit 31,  
20 please.

21 (WHEREUPON, a certain document was  
22 marked Wingo Deposition Exhibit No. 31,  
23 for identification, as of this date.)

24 (WHEREUPON, the document was

1 tendered to the witness.)

2 BY MR. LINDEN:

3 Q. You've been handed what has been marked  
4 Exhibit 31, which, for purposes of identification,  
5 is a memo addressed to you from Randy Lunt, dated  
6 November 30, 2007, regarding repetitive warehouse  
7 errors.

8 Have you ever seen this document before?

9 A. Yes.

10 Q. Were you provided with a copy of it?

11 A. Maybe.

12 Q. Did you ever file a grievance, under the  
13 labor contract, concerning the receipt of this  
14 document?

15 A. NO.

16 Q. And so in this memo Mr. Lunt points out  
17 the fact that apparently you had filled out an order  
18 originally not with the correct piece numbers,  
19 correct?

20 A. Yes. There was a discrepancy on the  
21 footage, because the metal was shorter than they  
22 thought it was going to be.

23 Q. But regardless, the particular work order  
24 specified a certain piece number --

1 A. Correct.

2 Q. Let me finish.

3 -- being 75, correct?

4 A. Yes.

5 Q. And instead, you filled it with  
6 82 pieces, correct?

7 A. To give them the correct footage.

8 Q. But regardless, it was contrary to the  
9 number of pieces, correct?

10 A. Yes, so we had to fix it.

11 Q. And you only fixed it after Mr. DeMien  
12 brought it to your attention, correct?

13 A. Correct.

14 Could I add one thing?

15 Q. No.

16 A. Okay, fine.

17 Q. Now, are you claiming Mr. Lunt gave you  
18 this memo, because he was discriminating against you  
19 because of your age?

20 A. It's a possibility.

21 Q. Well, let's focus a little bit more on  
22 your speculation that it was a possibility.

23 A. This was my fault.

24 Q. Okay, go ahead.

1 received this memo, as well as Exhibit 30, you had  
2 already been disciplined on three prior occasions in  
3 the fall of 2007, for excessive work order errors,  
4 correct?

5 A. For different reasons, yes.

6 Q. And so you were at the step that the next  
7 violation, the company could terminate you, under  
8 that work rule, correct?

9 A. Yes.

10 Q. So coming back to this particular  
11 document, Exhibit 31, as I understand your  
12 testimony, you concede that Mr. Lunt's giving you  
13 this, he acted appropriately, because you had made  
14 the error, correct?

15 A. Yes. He let me know that I made a  
16 mistake, so we tried to fix it.

17 Q. And then before, when I asked you whether  
18 or not you're claiming that Mr. Lunt issued this to  
19 you, because he was discriminating against your age,  
20 your response was, well, maybe, possibly.

21 Correct?

22 A. I made a mistake. The pieces were off, I  
23 didn't have the right piece count. He probably  
24 wasn't discriminating on my age on that particular

1 one. But on other ones that somebody else was  
2 wrong, he didn't care who the other people was, and  
3 that's where --

4 Q. With regard to Exhibit 31, just so the  
5 record's clear, you're not claiming that was given  
6 to you because of your age?

7 A. That particular one, maybe not.

8 Q. Let's go back to Exhibit 30, the other  
9 memo that Mr. Lunt gave you.

10 Are you claiming Mr. Lunt was  
11 discriminating against you, based on your age, when  
12 he issued you Exhibit 30?

13 A. No.

14 Q. Okay. And as I understand it, your prior  
15 testimony was also, when you were suspended for  
16 three days in November of 2007, you're not claiming  
17 that was because of your age, either, correct?

18 A. I don't recall the suspension on that  
19 one. There was one for the key punch, but the one  
20 where they brought me the wrong metal to the wrong  
21 department, that was someone else's mistake, too,  
22 and there I was discriminated by age on that one.

23 Q. Well, we'll come back to that in a  
24 moment.

1                   You were suspended for three days for  
2 excessive key punch errors, correct?

3           A.       Actually, I think it was one there, yes.

4           Q.       You're not claiming that was given to you  
5 because of your age, correct?

6           A.       The key punch was basically my mistake,  
7 but I thought I had it right.

8           Q.       All right, but when you say it was your  
9 mistake, you're not claiming the company issued you  
10 three days suspension for that, because they were  
11 discriminating against you because of your age,  
12 correct?

13          A.       No.

14          Q.       Okay. But the one discipline you're  
15 claiming that was issued to you because of your age  
16 was the one-day suspension?

17          A.       I believe that's the case. It was the  
18 one where they brought the wrong size or the  
19 wrong -- that was the one with Tally that we  
20 discussed, where they brought the wrong mill, and it  
21 shouldn't even have came to my department. It was  
22 an error that I did not catch, and it should not  
23 have been at my department. That was the younger  
24 side loader operator brought that order.

1 Q. Let's come to explore that a little bit  
2 further.

3 In that document you admit that you made  
4 the mistake. You should have caught the error  
5 yourself when you packed the materials, correct?

6 A. Yes, on that one, yeah. He made the  
7 mistake of bringing me the wrong thing, and I did  
8 not catch it.

9 Q. And you could have caught --

10 A. But I did catch three or four that --

11 Q. You could have caught it -- one at a  
12 time, please. You could have caught it, had you  
13 reviewed the work order, correct?

14 A. Yes, and I did catch three or four a week  
15 and sometimes three or four a day.

16 Q. I'm not asking whether or not you caught  
17 three or four a week. We're talking right now about  
18 this specific --

19 A. This one, I did not catch this one, no.

20 Q. And the younger side load operator we're  
21 talking about, just so the record is clear, again,  
22 we're talking about Tyler DeMien?

23 A. I believe so, on this one, yes.

24 Q. Well, you believe so or --

1                   So you'd put comments in there that might  
2 be of a special nature, correct?

3           A.     Correct.

4           Q.     All right. And then the last column  
5 would be "Stop Time."

6                   That would be when you would be done  
7 processing the order?

8           A.     Yes.

9           Q.     All right. So let's talk for a moment  
10 about some of the notations.

11                  First of all, is your writing on this?

12           A.     Yes.

13           Q.     So the initials above "Please print name,  
14 RGW," those are your initials, correct?

15           A.     Yes.

16           Q.     And this is a daily production log that  
17 you completed, correct?

18           A.     Yes.

19           Q.     All right. So let's focus for a moment,  
20 then, on the notations in "Comments, Special  
21 Assignment."

22                  I think all of these, with the exception  
23 of one of them, have "PT" in there.

24                  That would stand for what, pull truck?

1                   Looks like somebody wrote next to 10  
2 something G, and then next to 11, APF?

3           A.       Yes.

4           Q.       Is that your writing?

5           A.       No.

6           Q.       Do you know whose writing that would be?

7           A.       I think it's the second shift guy. I  
8 think these are orders that I started to do. Like I  
9 told you, we had to put the certification ID on the  
10 back of each order, okay. These were probably  
11 orders that come out late in the day, and I didn't  
12 have time to finish them, so I just started them.  
13 And by starting them, I put the certification or the  
14 identification of the mill on the work orders, and  
15 then it was time to go. So I wasn't able to  
16 complete the orders, or I started them and wasn't  
17 able to finish them.

18           Q.       Separate and apart from your speculation,  
19 do you actually know whose writing that is on those  
20 initials next to items 10 and 11?

21           A.       I think it's initial of somebody on the  
22 second shift.

23           Q.       Do you know who actually wrote that down?

24           A.       I'm not sure exactly who wrote that down.

1 Q. Now, where on this document does it  
2 indicate that any of these particular orders were  
3 not complete?

4 A. I don't know if I -- it looks like I  
5 didn't specify on this one. I don't know what  
6 happened, but I -- sometimes you didn't always have  
7 time to specify if you were able to complete them or  
8 not.

9 Q. So there's nothing on this particular  
10 document to indicate any of these orders were  
11 incomplete, correct?

12 A. Correct.

13 Q. Okay.

14 A. That's why the production, because there  
15 was no orders. There's no orders, you can't fill  
16 anything. You can't pack them, if they're not  
17 there.

18 Q. By the way, is completing the daily  
19 production logs considered to be part of your  
20 responsibilities in properly processing work orders?

21 A. Yes.

22 MR. LINDEN: Let's mark this Exhibit 33,  
23 please.

24 (WHEREUPON, a certain document was

1 marked Wingo Deposition Exhibit No. 33,  
2 for identification, as of this date.)

3 (WHEREUPON, the document was  
4 tendered to the witness.)

5 BY MR. LINDEN:

6 Q. All right. The court reporter has handed  
7 you what has been marked Exhibit 33, Mr. Wingo, and  
8 for purposes of identification, at the top it's  
9 entitled "Daily Production Log," with a date, 11/15.

10 Is this another one of your daily  
11 production logs?

12 A. Yes.

13 Q. Okay. Is there anybody else's  
14 handwriting on this document, besides your own?

15 A. Yes, down at the bottom.

16 Q. Where on the bottom?

17 A. 20. I started the order and almost  
18 completed it. But as you note in the bottom of the  
19 order, of the production sheet, it says "Helped the  
20 battery guy take two batteries, put them on skids  
21 and load them on his truck."

22 So instead of completing number 20 on the  
23 work order, instead of doing that, I ended up --  
24 Mark asked me, the foreman asked me if I would help

1 the battery guy fix the batteries, because they had  
2 some bad batteries that had to go back to be  
3 repaired. So Mark asked me, Bob, would you load  
4 these up for the guys? I said sure.

5 So I wasn't able to complete the work  
6 order that I was working on.

7 Q. Well, my question was --

8 A. So that's why -- yes.

9 Q. -- where on this document is there  
10 someone else's handwriting?

11 A. Number 20. That was probably the  
12 initials of the guy that completed the order.

13 Q. So your testimony is the numbers in work  
14 order, the piece numbers, the pounds and the  
15 reference OT in the item 20, is somebody else's  
16 writing other than yours?

17 A. No, no, that's my writing. But I'm  
18 saying that I started the order, I almost completed  
19 the order. But before I was able to finish it, Mark  
20 asked me to do another job. He asked me to load the  
21 batteries on the guy's truck.

22 Q. Where on this document does it indicate  
23 that you didn't complete the work order, item 20?

24 A. I didn't always note it on there.

1 misrepresent anything in your daily production logs,  
2 correct?

3 A. No, but sometimes you don't --

4 Q. It's a yes or no, Mr. Wingo.

5 A. Yes, yes.

6 Q. And you would agree that if you  
7 misrepresented things in the daily production log,  
8 that you'd be subject to discipline?

9 A. Yes.

10 Q. And you are aware that the company would  
11 possibly discipline you for falsifying company  
12 documents by misrepresenting things in your daily  
13 production log?

14 A. Well, the boss gave me a job, another job  
15 to do while I was --

16 Q. Again, my question is a yes or no.

17 A. Could you rephrase it, please. I  
18 didn't --

19 MR. LINDEN: Read back my question, please.

20 (WHEREUPON, the record was read  
21 by the reporter.)

22 BY THE WITNESS:

23 A. Yes.

24 BY MR. LINDEN:

1 Q. And you are aware that the work rules  
2 provided that you could be discharged for falsifying  
3 company documents --

4 A. Yes.

5 Q. -- and reports?

6 We sort of spoke over one another is that  
7 clear on the record? I don't know if it was clear.

8 (WHEREUPON, the record was read  
9 by the reporter.)

10 Q. So we're going to have to do the question  
11 over again, so the record's clear.

12 A. Go ahead, you want to ask it?

13 MR. LINDEN: You want to just read back my  
14 question?

15 (WHEREUPON, the record was read  
16 by the reporter.)

17 BY THE WITNESS:

18 A. Yes.

19 BY MR. LINDEN:

20 Q. Now, did you ever receive any sort of  
21 training on preparing and compiling your daily  
22 production log?

23 A. Basically, it's pretty simple. You just  
24 fill in the work order and the pieces in the columns

1 and anything else that goes with it. Comments, we  
2 always added the comments --

3 Q. Again, I'm going to have to interrupt,  
4 because you didn't answer my question.

5 A. Yes, I guess it's yes. I mean yes, we  
6 were instructed to fill it out.

7 Q. Who instructed you?

8 A. Probably one of the foremen, or Randy. I  
9 don't recall exactly who.

10 Q. You would agree, you would not want to  
11 take credit for doing work that you didn't do,  
12 correct?

13 A. Yes.

14 Q. Okay. And so it's your testimony, as I  
15 understand it, that when you prepared your daily  
16 production logs, you would indicate when you did not  
17 complete your work?

18 A. I tried to indicate, when I could, but  
19 there was times --

20 Q. Again, I'm going to ask you to answer my  
21 question. Hold on. Just relax.

22 A. Go ahead, ask. I'll wait.

23 MR. LINDEN: Would you please read back the  
24 question.

1 A. Yes, yes.

2 Q. And where on this document do you  
3 indicate that you had not completed any of these  
4 items?

5 A. Well, by the time, you can tell that the  
6 last one probably was incomplete, because it started  
7 at 2:20. So I was basically just partialing that  
8 one and just starting the order. Maybe I put it on  
9 the scale, but wasn't able to PK10 it in time.

10 Q. All right, I appreciate your maybes  
11 there.

12 Where, specifically, on this document  
13 does it indicate that item 17 was incomplete?

14 A. By the IG, probably.

15 Q. Well, probably means you're guessing.  
16 Where on this document does it indicate  
17 item 17 is incomplete?

18 A. I did not, I did not write it out on that  
19 one. Maybe it was close to the bell, and I didn't  
20 have time.

21 Q. All right. So again, as we continue to  
22 fence here, you would agree with me, item 17 does  
23 not indicate that it's incomplete, does it?

24 A. It is --

1 A. Probably 40.

2 Q. And you knew most of those 40 employees?

3 A. Some not as well, because they worked  
4 different shifts.

5 Q. And with regard -- we've established you  
6 obviously have been disciplined, correct?

7 A. Yes.

8 Q. You indicated Mr. Alvarez had been  
9 disciplined?

10 A. Possibly. I didn't know everything.

11 Q. Okay. And who else besides yourself were  
12 you actually aware had been disciplined?

13 A. I don't know. I -- just myself, as far  
14 as I know.

15 Q. So it would be safe to say you don't know  
16 anybody else's disciplinary record, as of the time  
17 you were terminated?

18 A. There could have been others that I was  
19 unaware of. I didn't always ask people their  
20 disciplinary problems. Usually people were  
21 embarrassed by their mistakes, and they didn't go  
22 telling everybody.

23 Q. So following your testimony, your  
24 testimony suggests that you didn't know the

1 disciplinary records of any of your fellow  
2 employees.

3 A. I mean you knew that things were going on  
4 with certain guys, but I didn't know everybody's  
5 history and everybody's thing.

6 Q. Again, coming back to my question, what  
7 employee did you actually know what their  
8 disciplinary record was?

9 A. Myself.

10 Q. Okay.

11 A. That was my main concern was myself.

12 Q. All right. So you got terminated by  
13 Mr. Lunt, correct?

14 A. Yes.

15 Q. And he terminated you for falsifying  
16 company documents?

17 A. Yes, for this one in specific that you  
18 just handed me, Exhibit 35.

19 Q. Well, it wasn't just that one, it was --  
20 there were two days involved, correct?

21 A. Two days in a row with similar problems.

22 MR. LINDEN: Let's mark this, please,  
23 Exhibit 36.

24 (WHEREUPON, a certain document was

1 Q. Did Randy Lunt tell you you were being  
2 terminated concerning your documentation in your  
3 employee production logs for the dates of -- let me  
4 finish.

5 A. Sorry.

6 Q. Did Randy Lunt tell you he was  
7 terminating you for falsifying company reports,  
8 based upon your employee production -- daily  
9 production logs of November 28th and November 29,  
10 2007?

11 A. Yes.

12 Q. Did he show you those logs?

13 A. Yes.

14 Q. Now, are you claiming that he made the  
15 decision to terminate you, because he wanted to get  
16 rid of you because of your age?

17 A. Yes, I think so.

18 Q. Okay. What is your support for your  
19 belief or your thinking so, that Mr. Lunt was  
20 terminating you because of your age?

21 A. Well, because in my mind's eye, they were  
22 not errors, I mean they were not falsifying. All I  
23 was just, basically was doing was stating what  
24 happened with the orders.

1 please.

2 (WHEREUPON, the record was read  
3 by the reporter.)

4 BY THE WITNESS:

5 A. Well, he said I falsified the record, but  
6 it wasn't, in my view, a falsification of the  
7 record.

8 BY MR. LINDEN:

9 Q. You disagreed with his opinion, correct?

10 A. I disagreed with his opinion.

11 Q. And that's your sole basis for your  
12 belief that Mr. Lunt was getting rid of you because  
13 of your age?

14 A. Well, because other employees, younger  
15 employees were allowed to do similar stuff. They  
16 weren't always completing the work order, and they  
17 weren't being held accountable for that.

18 Q. Beyond that, any other evidence to  
19 support your belief that Mr. Lunt was terminating  
20 you because of your age?

21 A. By not holding the younger employees  
22 accountable for their errors, that was one instance.

23 Allowing the younger employees to talk on  
24 their cell phones, that was another instance.

1 Q. You were never disciplined for talking on  
2 your cell phone, were you?

3 A. No.

4 Q. All right. Let's talk about these  
5 so-called younger employees.

6 These are these younger employees that  
7 you referenced in paragraph 12 of your complaint?

8 A. Yes.

9 Q. Okay. Let's -- first of all, Tyler  
10 DeMien, we've already established, through a variety  
11 of exhibits I've asked you about, that by the fall  
12 of 2007 you had been disciplined on a number of  
13 occasions; would you agree?

14 A. Yes.

15 Q. Okay. We've also established that by the  
16 time you were terminated in December of 2007, you  
17 had been progressively disciplined in the fall of  
18 2007 for excessive work order errors, correct?

19 A. Yes.

20 Q. Did Tyler DeMien have an identical  
21 disciplinary record to that?

22 A. He had issues and problems with errors,  
23 but he was never wrote up for it.

24 Q. But my question is, did he have

1 discipline on his record like you did?

2 A. No, they did not, they did not --

3 Q. It's a yes or no.

4 A. No, he didn't, because they didn't, they  
5 didn't write him up.

6 Q. It's a yes or no.

7 A. No.

8 Q. Okay. And let's talk for a moment about  
9 your problem with your daily production log reports.

10 Did you ever review Tyler DeMien's daily  
11 production log reports?

12 A. As far as I know, he didn't keep one.

13 Side loader operators didn't have to keep one.

14 Q. So he didn't have that responsibility?

15 A. No.

16 Q. So he obviously couldn't be similar to  
17 you, with respect to maintaining daily production  
18 log reports, because he didn't have to keep them, as  
19 you said?

20 A. He was similar in the fact that we both  
21 did orders, and we both --

22 Q. Again, I'm going to have to interrupt,  
23 because you're not answering the question.

24 MR. LINDEN: Can you please read back my

1 question.

2 (WHEREUPON, the record was read  
3 by the reporter.)

4 BY THE WITNESS:

5 A. Right, he didn't do the same job.

6 BY MR. LINDEN:

7 Q. Okay. Now, let's talk about Al Herrera.

8 Al Herrera, was he a warehouse clerk?

9 A. Yes.

10 Q. He worked what, the second shift?

11 A. Third shift.

12 Q. Third. So you didn't even work on the  
13 same shift as Al?

14 A. We overlap shifts. I come in at 4:00 in  
15 the morning; Al worked till 7:00.

16 Q. How old was Al Herrera?

17 A. Al was 35 or so, somewhere in there.

18 Q. And as of the time of your being  
19 terminated, how long had Mr. Herrera worked for the  
20 company?

21 A. He was another guy that came from  
22 Munster, so I'm not sure of the total history there.  
23 He was at Schaumberg for two, three years, I  
24 believe.

1 Q. He worked some period of time for Copper  
2 and Brass at the Munster facility?

3 A. Correct, maybe five years total. I'm not  
4 sure of the exact numbers.

5 Q. Do you ever review Mr. Herrera's  
6 personnel file?

7 A. No.

8 Q. Do you know what kind of discipline he  
9 has in his file?

10 A. No.

11 Q. Do you know if he's ever been disciplined  
12 for anything?

13 A. I think he mentioned it, but I'm not sure  
14 of everything.

15 Q. What did he mention to you?

16 A. He may have mentioned -- he missed time.  
17 He had to take a month off, because he had health  
18 issues. So I'm not sure if that was discipline or  
19 if that was other issues. I'm not sure on that.

20 Q. Do you know if he was ever disciplined  
21 for excessive work order errors?

22 A. He made an error with me that we were, we  
23 both got written up for, the very first one, if you  
24 remember back. I forgot what exhibit it was. We

1 shift?

2 A. Correct.

3 Q. And during the time you worked with him,  
4 did you ever work together on the same shift?

5 A. Maybe once or twice, but not too often.

6 Q. And you indicated a moment ago you don't  
7 know anything about his disciplinary record, other  
8 than whatever rumors you might have heard?

9 A. I didn't pry into his private life.

10 Q. All right. Now, your complaint  
11 references an employee by the name of Zidro, Z-I --

12 A. Zidro, that's the IG guy. Zidro, maybe  
13 it's Garcia, I'm not sure.

14 Q. What shift did he work?

15 A. Second shift.

16 Q. And how long did he work at Copper and  
17 Brass for?

18 A. Probably a year. He wasn't there that  
19 long.

20 Q. He got terminated?

21 A. I think he's still there. I'm not sure.

22 Q. Wait a minute, I'm confused now.

23 You said he was there for about a year,  
24 he wasn't there that long.

1                   You didn't work with him on the same  
2 shift, did you?

3           A.     I didn't work with him, but one of the  
4 guys on days told me that he messed up some stuff.  
5 I mean it was talk. We would sometimes talk, and he  
6 said that he messed up some stuff.

7           Q.     I'm now trying to find out about your own  
8 personal knowledge.

9                   Do you know for a fact, based on your own  
10 personal knowledge, that Mr. Garcia made the same  
11 type of mistakes you are claimed to have made on  
12 your daily production log reports?

13          A.     No. Those were not public information.

14          Q.     What was not public information?

15          A.     The mistakes guys made.

16          Q.     Okay. So that would be true for all of  
17 the employees you worked with?

18          A.     Pretty much so. We didn't -- we talked,  
19 and people knew some of the stuff, but you didn't  
20 always know. You didn't see the documentation.

21          Q.     And you wouldn't necessarily know what  
22 the supervisors may have known about any of your  
23 mistakes as well, correct?

24          A.     Only that they had told us we had too

1 many plant-wide, there was way too many mistakes  
2 plant-wide, that everybody was making them, and we  
3 had to tighten them up.

4 Q. When was that?

5 A. I think you showed us the paper. It was  
6 back in June, possibly, or July, somewhere around  
7 there.

8 Q. In 2007?

9 A. I believe so, yeah.

10 I mean we would have these type of  
11 speeches once a year, you know, where we'd have a  
12 meeting, and they'd say, you know, guys, we need to  
13 cut the errors. It was just overall effort.

14 Q. Another employee who you claim was  
15 treated more favorably than you is Lizardo  
16 Hernandez?

17 A. Yes.

18 Q. What shift did Mr. Hernandez work?

19 A. He worked on the first shift with me.

20 Q. And he was a warehouse clerk?

21 A. Actually, he was the guy that brought  
22 wrong orders. He was a side loader operator that  
23 brought me wrong metal, but he was never  
24 disciplined.

1 Q. He was the one who brought you the wrong  
2 metal? I thought that was Mr. DeMien.

3 A. Both of them. They were both side loader  
4 operators. They were both the guys who pulled the  
5 orders for me. So they went and got the metal and  
6 the orders for me, but both of them made mistakes.  
7 They were human, they made mistakes, but they were  
8 never disciplined for it.

9 Q. With respect to Mr. Hernandez, did you  
10 ever see his disciplinary record?

11 A. No. I don't know everything.

12 Q. And Mr. Hernandez worked at the company  
13 for how long?

14 A. Roughly five years. I don't know for  
15 sure.

16 Q. Was he still employed there when you  
17 left?

18 A. Yes.

19 Q. Okay. And he was still a side load  
20 operator?

21 A. Yes.

22 Q. And as a result of being a side load  
23 operator, he did not have to prepare daily  
24 production log reports like you?

1                   When was it that Mr. Hernandez allegedly  
2 brought you the wrong metal?

3           A.     This was quite often. I was catching  
4 three to five orders a week, so Lizardo was maybe  
5 one or two a week.

6           Q.     But as I understand your testimony,  
7 Mr. Wingo, at least you seem to be suggesting, under  
8 sworn oath here today, that Mr. Hernandez brought  
9 you wrong metal, which resulted in you being  
10 disciplined, correct?

11          A.     He may have brought some of it over the  
12 course of time. I caught a lot of the stuff he  
13 brought.

14          Q.     I'm not ask for speculation. My question  
15 is specific, very precise.

16                  Are you claiming that Mr. Hernandez  
17 brought you wrong metal, which subsequently resulted  
18 in your being disciplined?

19          A.     I don't know, I don't think he signed the  
20 work orders that I specifically got disciplined for.

21          Q.     Okay. And so you would agree that  
22 Mr. Hernandez, by virtue of his side load operator  
23 position, was not similarly situated to you, because  
24 he had different duties and responsibilities than a

1 warehouse clerk?

2 A. Yes.

3 Q. And that would be true for anybody whose  
4 position was side load operator, correct?

5 A. Yes.

6 Q. Did he have a different supervisor than  
7 you?

8 A. Same.

9 Q. Mr. DeMien?

10 A. Correct.

11 Q. And at other times it would have been  
12 who?

13 A. That was mainly it, first shift. On  
14 occasion, if Mark wasn't there, it would be Randy or  
15 second shift foreman or one of the other foremans.  
16 Ray Dormo was another foreman that occasionally  
17 stepped in.

18 Q. All right. The last person you  
19 identified as a possible comparable younger employee  
20 treated more favorably than you would be Ray Cather?

21 A. Ray Cather.

22 Q. Was he a warehouse clerk?

23 A. Yes.

24 Q. And he was one of the persons who came

1 over from Munster?

2 A. Correct.

3 Q. And how was he more favorably treated  
4 than you?

5 A. He was allowed to talk on his cell phone,  
6 when the foreman would walk right by. He slept in  
7 his Jeep, and the foreman caught him two or three  
8 times and didn't say anything, just kept walking.

9 He would ignore it.

10 Q. Anything else?

11 A. He was on the cell phone, he -- oh, he'd  
12 sit in the job and just rock. Rather than work, he  
13 would just sit there and do nothing, maybe just rock  
14 back and forth. He had a nervous disorder where  
15 he'd just rock and stuff.

16 Q. So those are how he was more favorably  
17 treated than you?

18 A. Yeah, he was allowed to do these things.  
19 If I was to do any of that, I would be disciplined.

20 Q. But again, you were never disciplined for  
21 talking on your cell phone?

22 A. No.

23 Q. And did you ever review Mr. Cather's  
24 personnel file?

1 A. No. Those were private.

2 Q. So you don't know, for example, whether  
3 or not he was disciplined for the things you just  
4 described?

5 A. I don't know for sure. I know a lot of  
6 times it was ignored.

7 Q. Can you identify any younger warehouse  
8 clerk who, on their daily production log reports,  
9 misrepresented to the company that they had  
10 completed all the work they had performed that day?

11 A. Probably Al was the main one, because he  
12 was the one I worked with. Like I say, he would  
13 take credit for three or four orders that we weren't  
14 able to complete. I mean, it would be usually at  
15 least one or two a day.

16 Q. Anybody else, besides Mr. Herrera?

17 A. He was the main one that I worked with,  
18 that I know.

19 Q. Do you know if anybody in management in  
20 Copper and Brass knew that?

21 A. I don't know. No, I don't know.

22 Q. So other than what you've testified to  
23 today, Mr. Wingo, what other proof do you have that  
24 you were discriminated against on the basis of your

1 of it and say, you can't do it this way anymore.

2 Q. And you would agree, by the time you were  
3 terminated, that the company had disciplined you on  
4 a number of occasions about your paperwork, correct?

5 A. I don't think so. I mean, I wasn't  
6 perfect, I made some mistakes; but overall my  
7 paperwork was pretty much in order.

8 Q. You are now going to disagree with the  
9 record, all these exhibits here that establish that  
10 you received discipline on multiple occasions for  
11 excess work order errors?

12 A. Sure. I was there for 24 years, and --

13 Q. I'm not asking you how many years you  
14 were there for, Mr. Wingo.

15 Let's read back my question, please, and  
16 I'd like to get an answer to my question.

17 A. Sure.

18 Q. I'm going to ask you, Mr. Wingo, to  
19 kindly refrain from talking while I'm asking my  
20 question.

21 A. I thought you were done. I'm sorry.

22 Q. It's a simple courtesy, and I'll do the  
23 same to you, okay.

24 You would agree today you've been

1 cross-examined about quite a few number of times  
2 that you were disciplined for excessive work order  
3 errors?

4 A. Yes.

5 Q. And you would agree, with respect to all  
6 that discipline, you never filed a single grievance,  
7 under the labor contract, contesting the validity of  
8 any of that discipline?

9 A. I never did grievance it.

10 Q. And you would agree that in the fall of  
11 2007, prior to your being terminated, you were  
12 disciplined on several occasions for excessive work  
13 order errors?

14 A. Yes.

15 Q. And you would agree also, after being  
16 suspended for three days, for excessive work order  
17 errors, when you returned to work, Mr. Lunt sat down  
18 with you and talked to you and counseled you about  
19 the importance of being accurate in your, in your  
20 documentation?

21 A. Yes.

22 Q. And you would agree that you were  
23 counseled on two occasions after you returned from  
24 your suspension, but prior to your being terminated

1 Q. Okay. And where on this do you indicate  
2 any of these work orders are incomplete?

3 A. Right on the right-hand column, in the  
4 comments.

5 Q. Which ones, sir?

6 A. Okay, the first one, actually, the one,  
7 the -- okay, the one with MEA by it, number 20, I  
8 wrote that I boxed it. And you can see by the time,  
9 2:25, it was time to go. So in other words, I just  
10 prepared the order, I did a partial on it, I boxed  
11 it up, I stamped the weight, I did everything but  
12 complete the order, because it was time to go, it  
13 was 2:25. And that was common all the time, this  
14 kind of stuff.

15 Q. Other than the fact that you reference  
16 the time 2:25, you would agree there's nothing in  
17 your comments that says the order is incomplete?

18 A. I did not write incomplete. I did  
19 everything but write incomplete.

20 Q. Okay.

21 A. And the one, the second one, number 21  
22 was the wrong size was pulled, and I was just  
23 documenting that the wrong size was pulled. So I  
24 told Arty, the second shift guy, I let him know that

1 snickering.

2                   When was it, Mr. Wingo?

3           A.       They were making errors all along.

4           Q.       What year did the age discrimination  
5 allegedly start?

6           A.       Basically, right around the August, after  
7 the, after the oral harassment from the foreman.

8           Q.       August of 2007?

9           A.       Correct.

10          Q.       Okay. And when you say the harassment by  
11 the, by the supervisor, 'cause I don't want the  
12 record to be unfairly --

13          A.       By Mark DeMien. By Mark DeMien. I'll be  
14 more specific.

15          Q.       And when we talk about Mark DeMien, we're  
16 talking about your testimony earlier in your  
17 deposition, where you were upset with the fact that  
18 he swore at you?

19          A.       Yes, sir.

20          Q.       Okay. That's what you mean by  
21 harassment?

22          A.       Well, it was ongoing screaming and  
23 yelling and swearing, a combination of all that.  
24 That wasn't a professional way to handle a dispute

1 A. Yes, to Randy Lunt.

2 Q. Okay. And you also didn't like the fact  
3 that you thought Mark DeMien was favoring his son?

4 A. Well, he never was disciplined for the  
5 wrong orders, so.

6 Q. Again --

7 A. Yes.

8 Q. Thank you.

9 And so again, so I'm sure I could -- that  
10 I want to be certain that I understand your claim in  
11 this lawsuit, you're claiming what, both Mark DeMien  
12 and Randy Lunt decided to terminate you because of  
13 your age?

14 A. They ignored others' errors, and yes,  
15 they decided to terminate me for the errors that  
16 other people were making, too, and they weren't  
17 being disciplined.

18 Q. So they terminated you as a sacrifice to  
19 the younger people?

20 A. Seems that way.

21 Q. Okay. And when you say it "seems that  
22 way," you're speculating, right?

23 A. Well, they're still there and I'm gone,  
24 so.

1 Q. There are other people employed there who  
2 are older than you, correct?

3 A. Yes.

4 Q. Lance Amack being one?

5 A. Yes. He's ready to retire.

6 Q. Do you know a Mr., I believe, Polito?

7 A. Do you have a first name? I don't  
8 recognize the last name.

9 Q. Hold on.

10 A. Maybe he was a newer guy. I don't know  
11 the names.

12 Probably second shift.

13 Q. Do you know a Fredrick Stalzik  
14 (phonetic)?

15 A. Freddie, yes. Yes, I do know Freddie.

16 Q. Is he older or younger than you?

17 A. I don't know his age. I never asked him  
18 his age. I don't know.

19 He's an older gentleman.

20 Q. Was he still employed --

21 A. He's probably over 50.

22 Q. Is he still employed there?

23 A. I believe so. I don't know.

24 Q. Do you know an employee by the name of

1 Enrico Polito?

2 A. It sounds familiar, but I don't remember.

3 I don't know his last name. That's why I don't  
4 know.

5 I thought there was a Rico there, yes.

6 Q. The Rico you knew, was he older or  
7 younger than you?

8 A. I don't know. I'm not placing the guy  
9 with the name. It's been a while.

10 Q. Do you know a Denny Prosser (phonetic)?

11 A. Denny Prosser, yes.

12 Q. He was employed at Copper and Brass when  
13 you left?

14 A. Yes.

15 Q. Was he about the same age as you?

16 A. I'm not sure his age. I think he was  
17 younger.

18 Q. Well, was he much younger than you?

19 MS. WEGNER: I'll object, calls for  
20 speculation. Already asked and answered.

21 BY THE WITNESS:

22 A. Was he what, younger than me?

23 BY MR. LINDEN:

24 Q. Much younger than you.

1 MS. WEGNER: Same objections.

2 BY THE WITNESS:

3 A. I don't know.

4

5 BY MR. LINDEN:

6 Q. Do you know a -- you mentioned, I think,  
7 Zidro Garcia?

8 A. Zidro. That was the IG on the forms,  
9 yes. Zidro, yes.

10 Q. And he worked on the second shift?

11 A. Yes.

12 Q. Do you know if he was roughly your age?

13 A. I think he was younger.

14 Q. Do you know how much younger?

15 A. I don't know.

16 Q. Do you know a Tony Falco?

17 A. Yes.

18 Q. Do you know how old he is?

19 A. He's 40, 40 something. I'm not sure  
20 exactly what.

21 Q. You don't know exactly how old he is?

22 A. He's probably 47 or something like that.

23 I'm not sure.

24 Q. Do you know an Arturo Flores?

1 A. Arty's probably 50.

2 Q. Was he a warehouse clerk?

3 A. Yes.

4 Q. And was he still employed at Copper and  
5 Brass when you left?

6 A. I think so.

7 Q. Okay. So Mr. Wingo, you seem to be  
8 suggesting in part, you don't dispute the fact that  
9 you made errors?

10 A. Yes.

11 Q. And you don't dispute the fact that the  
12 errors you made resulted in your discipline, but you  
13 believe younger employees were making the same  
14 mistakes, and they should have also been disciplined  
15 like you were?

16 A. Correct, they were making similar errors  
17 on the work orders, maybe not exactly the same  
18 problems; but they were bringing me the wrong  
19 material, alloys, things I could not succeed with,  
20 and they were not being disciplined.

21 Q. All right. So beyond them bringing you  
22 the wrong materials and -- who were those younger  
23 people that were bringing you the wrong materials?

24 A. The side loader operators.

1 A. Yes, sir.

2 Q. And this document indicates that you were  
3 complaining to Mr. Fruehauf about how Mark DeMien  
4 spoke to you when he swore at you?

5 A. Yes.

6 Q. Okay.

7 A. How I was being harassed, yes.

8 Q. And you would agree, there's nothing in  
9 here to indicate that you were complaining to Bill  
10 Fruehauf about age discrimination?

11 A. Yes.

12 Q. And the very last page of this exhibit,  
13 this is your handwriting?

14 A. Which page?

15 Q. The very last page of the exhibit.

16 A. Let me check.

17 Q. 000146 at the top. It refers to Pat  
18 Bishop, and there's a phone number.

19 A. Yes.

20 Q. This is all your handwriting?

21 A. Yes, sir.

22 Q. And what, you prepared this after having  
23 a phone conversation with Pat Bishop?

24 A. Yes.

1 meeting with Randy Lunt, Gino, my union rep and Pete  
2 LaRocco, my union steward, and I ran into Pat  
3 Bishop. And I said, Pat, didn't you tell them that  
4 you heard the whole conversation? Or what did you  
5 say? Didn't you hear it or what?

6                   He says, yeah, of course I heard it. I  
7 was there, and I told you to hire a lawyer, that you  
8 shouldn't let him talk to you that way. But he said  
9 Fruehauf never asked us, he never asked if we  
10 witnessed it. So in other words, he lied and said  
11 that he did witness it, but he never did ask them if  
12 they saw it.

13           Q.     During your employment with Copper and  
14 Brass Sales, when did you begin completing the  
15 production logs?

16           A.     That's hard to say. Probably at least  
17 ten or 15 years ago.

18           Q.     Okay.

19           A.     Quite a while back.

20           Q.     And did you do anything different in the  
21 way that you completed the production logs from the  
22 time you began until your termination?

23           A.     Not so much. It basically stayed the  
24 same.

1 A. Mark DeMien.

2 Q. What proof do you have that Mark DeMien,  
3 in 2005, denied you an overtime opportunity, because  
4 you filed a grievance about -- I'm talking, sir.

5 I'm beginning to suspect you do that intentionally.

6 A. I'm just trying to answer your question.

7 Q. How could you be answering my question,  
8 if I'm not even done with my question?

9 A. I thought you were done. I'm sorry, I  
10 thought you were done.

11 MR. LINDEN: Why don't you read back my  
12 question, please.

13 (WHEREUPON, the record was read  
14 by the reporter.)

15 BY THE WITNESS:

16 A. I don't have any proof.

17 Q. Thank you.

18 Let's talk about Exhibit 28, which is the  
19 October 10, 2007 discipline. I put Exhibit 28  
20 before you, Mr. Wingo.

21 Your testimony now, in response to  
22 questions from your counsel, you tried to blame what  
23 happened there on the person who gave you the  
24 product, correct?

1 A. Right, they pulled the wrong material.

2 Q. You still processed, even though it was  
3 brought to the wrong area, correct?

4 A. I did not catch it.

5 Q. Okay. And that would have been your  
6 responsibility, correct?

7 A. Correct.

8 Q. Okay. Now, let's talk about Exhibit 37,  
9 so I'm sure I understand your testimony. This is  
10 your daily production log for November 29, 2007.

11 As I understand your testimony, in  
12 response to a question by your counsel, the times  
13 you have in the column "Stop Time" are the actual  
14 start times for when you start working on these  
15 projects.

16 A. I'm not sure on all of them that they  
17 were start or stop times. I just tried to document  
18 some time there.

19 Q. Well, how would the person relying on  
20 this document know whether or not it was a start  
21 time or a stop time -- I'm not done -- if you're  
22 sitting here today, looking at your own document,  
23 can't tell us whether or not the time is a stop time  
24 or start time?

1 Q. Lance Amack ever take anything?

2 A. I don't know.

3 Q. Now, you indicated that the side loader  
4 operators and the shipping and receiving are  
5 actually warehouse clerks?

6 A. Warehousemen.

7 Q. Well, there's a job classification  
8 warehouse clerk, isn't there?

9 A. Probably.

10 Q. What do you mean, "Probably"?

11 A. Well, our classification was overall  
12 warehousemen, and then you break it down to order  
13 clerks or side loader operator; but we made the same  
14 money.

15 Q. And you had different duties and  
16 responsibilities than the side load operator,  
17 correct?

18 A. Yes.

19 Q. And you had different duties and  
20 responsibilities than the shipping and receiving  
21 clerks?

22 A. Yes.

23 Q. Now, when you complained to Bill Fruehauf  
24 about Mark DeMien swearing at you in August of 2007,

1 you had already been terminated, correct?

2 A. Yes.

3 Q. Now, this conference call you

4 described -- when was the last time you spoke to

5 Sergio Garcia?

6 A. I haven't talked to Sergio since I was  
7 terminated.

8 Q. When was the last time you spoke to Pat  
9 Bishop?

10 A. I ran into Pat on the last day of my  
11 grievance procedure, on the very last one.

12 Q. Was Pat Bishop ever disciplined by  
13 Mark DeMien?

14 MS. WEGNER: Object, calls for speculation.

15 BY THE WITNESS:

16 A. I don't know.

17 BY MR. LINDEN:

18 Q. Well, let's see if I can help you out.

19 A. Probably, yes. Yes, he was wrote up that  
20 same day, right, of the verbal harassment; yes, he  
21 was.

22 Q. So the very same day that you got  
23 verbally --

24 A. Wait, that was stricken from the case.

1 A. I can't remember exactly when. It was  
2 around, right after the termination, somewhere in  
3 December.

4 Q. But you don't know whether or not  
5 Mr. DeMien was simply temporarily filling you until  
6 such time as they permanently replaced you, if they  
7 were going to --

8 A. Yes.

9 Q. And would there possibly have been a job  
10 posting?

11 A. There should have been, yes.

12 Q. And so you don't know, sitting here  
13 today, who, if anyone, would have permanently  
14 replaced you?

15 A. Correct.

16 Q. All right. Now, let's talk about this  
17 conference call that took place on December 4th,  
18 involving Mr. Fruehauf.

19 Your wife was also involved in that call?

20 A. Yes, she was in the background, and she  
21 understood, you know, a little of what was going on.

22 Q. Did you let Mr. Fruehauf know that your  
23 wife was on the telephone?

24 A. No. She was not on the phone, she was in

1 your packing right the whole job do the order right  
2 basically is what he was saying. Not just  
3 paperwork. Paperwork's only part of the order. You  
4 know, you got to do the physical part of the order,  
5 too.

6 Q. And you agree, it's very important, it  
7 was an essential function of your job to do your  
8 paperwork right?

9 A. Sure, yes.

10 Q. And you would agree, if you didn't do  
11 your paperwork right, that the company could  
12 discharge you for it?

13 A. Sure.

14 MR. LINDEN: I have nothing further.

15 Thank you for your time, Mr. Wingo.

16 THE WITNESS: Sure.

17 EXAMINATION

18 BY MS. WEGNER:

19 Q. To your knowledge, Mr. Wingo, was  
20 Mr. LaRocco --

21 A. LaRocco.

22 Q. Was Mr. LaRocco very friendly with  
23 members of management at Copper and Brass?

24 A. Yes, he was.